

# **HOUSING AUTHORITY OF THE COUNTY OF SAN DIEGO**

## **Section 8 Housing Choice Voucher Program**

**April 2004**



## **Administrative Plan**

**HOUSING AUTHORITY OF THE COUNTY OF SAN DIEGO**  
**Administrative Plan**

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DEVELOPMENT**

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## STATEMENT OF POLICIES AND OBJECTIVES

The Section 8 Program was enacted as part of the Housing and Community Development Act (Act) of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, are described, as implemented, throughout this Administrative Plan. The Section 8 rental assistance programs are federally funded and administered for the County of San Diego by the Housing Authority of the County of San Diego (HACSD) through its Department of Housing and Community Development (HCD).

Administration of the Section 8 Program and the functions and responsibilities of the housing staff shall be in compliance with the County of San Diego personnel policy and the Department of Housing and Urban Development's (HUD) Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

### JURISDICTION

The jurisdiction of the HACSD includes the cities of Chula Vista, Coronado, Del Mar, El Cajon, Escondido, Imperial Beach, La Mesa, Lemon Grove, Oceanside, Poway, San Marcos, Santee, Solana Beach, Vista, and the unincorporated county areas.

### MISSION STATEMENT

The *HCD Mission Statement*:

*"Building Better Neighborhoods"*

The *HUD Mission Statement*:

*"To promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination"*

## **OTHER RENTAL ASSISTANCE PROGRAMS**

In addition to the Housing Choice Voucher Rental Assistance Program, the HACSD operates the following housing assistance programs:

Shelter Plus Care

HOPWA

HOME – Tenant-based rental assistance programs

Emancipated Foster Youth – non-HOME funded

Del Mar Local Rental Assistance Program

Moderate Rehabilitation Program

Redevelopment Local Rental Subsidy Program

These programs are administered in conformance with Section 8 rules and regulations, unless indicated otherwise in the special program plans or the special program regulations.

## **CORE VALUES AND ETHICAL STANDARDS**

All officers or employees of the HACSD will comply with the Code of Ethics of the County of San Diego as well as those mandated under the Housing Choice Voucher Program. This includes compliance with the conflict of interest requirements of the Housing Choice Voucher Program under 24 CFR 982.161. The conflict of interest provision prohibits the PHA or any of its contractors or subcontractors entering into any contract or arrangement in connection with the tenant based programs in which any of the following classes or persons have any interest, direct or indirect, during tenure or for one year thereafter. The classes or persons include: (1) any present or former member or officer of the PHA (except a participant commissioner); (2) any employee of the PHA, or any contractor or subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs; (3) any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; and, (4) any member of the Congress of the United States. Any members of the classes described in this section must disclose their interest or prospective interest to the PHA and HUD. The HUD field office may waive for good cause the conflict of interest prohibition under this section.



All HACSD officers, employees, contractors, subcontractors or agents will comply with all requirements that prohibit the solicitation or acceptance of gifts or gratuities, in excess of a nominal value.

All HACSD officers, employees, contractors, subcontractors or agents will conduct business with integrity and in an honest and professional manner.

Any violations of code of ethics, core values and ethical standards policies will result in disciplinary action ranging from letter(s) of warning to termination of employment and/or contract. Opportunity may be offered, on a case-by-case basis, to correct a conflict of interest. Code of ethics, core values and ethical standards policies will be communicated to the above groups upon initial employment, prior to execution of a contract, and at least annually.

## **LOCAL GOALS**

[24 CFR 982.1]

*To expand the supply of assisted housing, and support the efforts of housing development agencies, as well as, to increase the inventory of affordable housing for families in need as identified in local consolidated plans.*

*To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.*

*To encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human service needs.*

*To create positive public awareness and expand the level of family, owner, and community support in accomplishing the HACSD's mission.*

*To attain and maintain a high level of standards and professionalism in the day-to-day management of all program components.*

*To administer an efficient, high-performing agency through continuous improvement of the HACSD's support systems and commitment to its employees.*

*To provide decent, safe, and sanitary housing for very low income families while maintaining rent payments at an affordable level.*

*To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.*

*To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.*

*To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low income families.*

*To promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.*

## **PURPOSE OF THE PLAN**

[24 CFR 982.54]

The purpose of this Administrative Plan (Plan) is to establish policies for carrying out the programs in a manner consistent with HUD requirements, and in a manner consistent with local goals and objectives outlined in the agency plan. All pre-merger regular tenancy contracts, Housing Voucher contracts, and over fair market rent tenancy contracts have been transitioned to the Housing Choice Voucher Program as of October 1, 2001.

The HACSD is responsible for complying with all changes in HUD regulations pertaining to the HUD programs it administers. If such changes conflict with this Plan, HUD regulations will have precedence. The HACSD Board of Commissioners must approve the original Plan, and any changes. The pertinent sections must be included in the agency plan with a copy provided to HUD.

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

24 CFR 984: Self Sufficiency Program

24 CFR 985: Management Assessment Program

Local rules incorporated in this Plan are intended to promote local housing objectives consistent with the intent of federal housing legislation.

## **ADMINISTRATIVE ERROR**

If the HACSD discovers an administrative error that resulted in an underpayment of housing assistance payments, it will correct the error back to the previous action

taken, and issue a payment to the participant. If the HACSD discovers an administrative error resulted in an overpayment of assistance, the error will be corrected with a 30-day advance notice.

## **ADMINISTRATIVE FEE RESERVE**

[24 CFR 982.54(d)(22)]

The Board of Commissioners must approve expenditures of over \$50,000 of the administrative reserve (operating reserve) for other housing purposes.

## **RULES AND REGULATIONS**

[24 CFR 982.52]

This Plan defines the HACSD's local policies for operation of the housing programs in the context of federal laws and regulations. All Section 8 issues not addressed in this document are governed by federal regulations, HUD memos, notices, guidelines, or other applicable law. The policies in this Plan have been designed to ensure compliance with the consolidated annual contributions contract (ACC) and all HUD-approved applications for program funding.

## **TERMINOLOGY**

The Housing Authority of the County of San Diego is referred to as the "HACSD" or "PHA" or "Housing Authority" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" or "Tenant" or "Household" and can refer to a single person family.

"Tenant" is usually used to refer to participants in terms of their relation to landlords.

"Landlord" and "owner" are used interchangeably.

"Disability" is used where "handicap" was formerly used.

"Non-citizen Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

"HQS" means the Housing Quality Standards required by regulations as enhanced by the PHA.

"Failure to Provide" refers to all requirements of the Family Obligations of the program as outlined elsewhere in the Plan.

"Merger" date refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher programs into the Housing Choice Voucher Program.

See Glossary for other terminology.

## **FAIR HOUSING POLICY**

[24 CFR 982.54(d)(6)]

The Housing Authority will fully comply with all federal, state and local nondiscrimination laws, rules and regulations governing fair housing and equal opportunity in housing and employment.

The HACSD will not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, disability, income source, or sexual orientation.

To further the HACSD commitment to full compliance with applicable civil rights laws, at the family briefing, the HACSD will provide federal/state/local information regarding unlawful discrimination, and any recourse to those who believe they are victims of a discriminatory act. All applicable fair housing information and discrimination complaint forms will be included in the voucher holder's briefing packet, and will be available upon request.

All HACSD staff members may be required to attend fair housing training. These employees, in the overall commitment to quality customer service, are informed of the importance of affirmatively furthering fair housing, providing equal opportunity to all families, and providing reasonable accommodations to persons with disabilities. Fair housing posters are displayed throughout the Housing Authority office, including in the lobby and interview rooms, and in such a manner as to be readable from a wheelchair.

The equal opportunity logo will be used on all outreach materials. To keep current with new developments, staff may attend local fair housing update training sponsored by HUD, or other organizations.

Except as otherwise provided in 8.21(c)(1), 8.24 (a), 8.25, and 8.31 of the regulations, no individual with disabilities shall be denied the benefits of, or be excluded from participation in programs, or otherwise be subjected to discrimination because the HACSD's facilities are inaccessible to, or unusable by persons with disabilities.

The Housing Authority of the County of San Diego is accessible to persons with disabilities. The California Relay Service provides accessibility for the hearing impaired.

## **REASONABLE ACCOMMODATIONS POLICY**

[24 CFR 8.4(b)(i), 8.24 and 8.33]

When a family member requires an accessible feature(s) or policy modification to accommodate a disability, PHAs must provide such feature(s) or policy modification unless doing so would result in a fundamental alteration in the nature of the program, or an undue financial and administrative burden. It is the policy of the HACSD to be service oriented, and to exercise and demonstrate a high level of professionalism. The HACSD shall make reasonable accommodation, upon request, to the reported physical or mental limitations of an otherwise qualified person with disabilities.

A participant with a disability must ask for a specific change to a policy or practice as an accommodation of his or her disability before the HACSD will treat him or her differently than anyone else. The HACSD's policies and practices are designed to, upon request, provide reasonable accommodations to persons with disabilities, so they may fully access and utilize the housing program and related services. The availability of reasonable accommodation is made known by including the information on the Housing Authority's forms and letters. This policy will afford persons with disabilities an equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as those who do not have disabilities. This policy is applicable to all situations described in this Plan, including when a family initiates contact with the HACSD, or when the HACSD initiates contact with a family. This policy is applicable when a family applies for assistance, as well as when the HACSD schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must make the request at least seven days in advance and may be required to certify (if apparent) or verify (if not apparent) to be an individual with a disability under the following definition:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual

A record of such impairment; or being regarded as having such an impairment

Does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program

*Note: This is not the same as the HUD definition used for purposes of determining allowances.*

Rehabilitated former drug users and alcoholics are covered under the Americans with Disabilities Act (ADA). However, a current drug user is not covered. In accordance with 24 CFR Part 8.3, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

The HACSD will require at least annually that a professional third party competent to make the assessment of disability provide written verification that the individuals need a specific accommodation due to their disability, exactly what accommodation is recommended, exactly how this accommodation will allow them to fully access the program, and that the change is required for them to have equal access to the housing program.

If the HACSD finds that the requested accommodation creates an undue administrative or financial burden, then it will either deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the HACSD (i.e., waiving a family obligation or criminal history prohibition).

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the HACSD.

The HACSD will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation, or feels that the alternative suggestions are inadequate, s/he may request a informal with a supervisor to discuss the HACSD's decision.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. In addition, a designee may represent the individual with a disability, but only with written permission of the disabled person.

### **VERIFICATION OF DISABILITY**

The HACSD will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

## **APPLYING FOR ADMISSION**

All persons who wish to apply for any of the HACSD's programs must submit pre-applications. Applications will be made accessible upon request from a person with a disability.

To provide specific reasonable accommodation to persons with disabilities, upon request, the information may be mailed to the applicant, mailed to the applicant's contact person, completed by a designee, or any other specified reasonable accommodation.

The full application is completed in the applicant's own handwriting, unless the applicant is a disabled person who requests assistance or other accommodation. The HACSD staff may interview applicants to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation may be requested at that time, or mailed to the applicant. All applicants are advised that reasonable accommodations are available.

## **TRANSLATION OF DOCUMENTS**

In determining whether it is feasible to provide translation of documents written in English into other languages, the HACSD will consider the following factors:

- The availability of local organizations to provide translation services to non-English speaking families.

- Bilingual staff available to provide translation for non-English speaking families.

- The need of clientele for translated documents.

## **MANAGEMENT ASSESSMENT OBJECTIVES**

The HACSD can demonstrate to HUD auditors that it applies resources in a manner that reflects its commitment to quality and service. The HACSD policies and practices are consistent with following HUD and SEMAP requirements:

- Selection from the waiting list

- Reasonable rent

- Determination of adjusted income

- Utility allowance schedule

HQS quality control inspections

HQS enforcement

Expanding housing opportunities

FMR/exception rent and payment standards

Annual Reexaminations

Correct tenant rent calculations

Pre-contract HQS inspections

Annual HQS inspections

Lease rate

Family self-sufficiency enrollment and escrow account balances

De-concentration of families

A supervisor, or other qualified person, other than the person who performed the work, will perform supervisory quality control reviews, as required by HUD, on the following SEMAP factors:

Selection from the waiting list

Rent reasonableness

Determination of adjusted income

HQS enforcement

HQS quality control

The annual sample of files and records is drawn randomly from computer-generated lists or other reports, such as field logs, which leave a clear audit trail.

The SEMAP required minimum sample size is reviewed for all SEMAP indicators that require a random sample.

## **RECORDS FOR MONITORING PERFORMANCE**

In order to demonstrate compliance with HUD and other pertinent regulations, the HACSD will maintain and retain records, reports and other documentation in



accordance with HUD requirements. These records will be maintained in a manner that will allow an auditor, housing professional, or other interested party, to follow, monitor and or assess the HACSD's operational procedures objectively, with accuracy, and in accordance with SEMAP requirements, and internal management controls.

In addition to the required SEMAP documentation, supervisory staff will monitor the following functions:

All annual recertifications will be monitored for completion at least 30 days before the re-exam due date.

All annual inspections will be monitored for completion at least 30 days before the due date

All new applications will be monitored for compliance with the regulations

## **PRIVACY RIGHTS**

[24 CFR 982.551 and CFR 5.212]

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/HACSD will release family information.

The HACSD's policy regarding release of information is in accordance with state and local laws that restrict the release of family information.

The HACSD will not request specific information regarding a person's disability. The HACSD will ask that a health professional to confirm that a person's disability indicates a need for specified services or accommodation. If specific information is received regarding the disabled person's disability, the information will be kept confidential, and be destroyed in a confidential manner after a determination has been made.

The HACSD's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files are stored in a secure location, only accessible to authorized staff.

HACSD staff will not discuss family information contained in files except for a business reason. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Unauthorized persons may not remove files from secure storage areas.

## **FAMILY OUTREACH**

[24 CFR 982.206]

The HACSD will, on a regular basis, publicize and disseminate information to make known the availability of housing assistance, and related services for very low-income families. If the HACSD's waiting list is reopened, the HACSD will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, or by other suitable means.

To reach persons who cannot read newspapers, the HACSD will distribute fact sheets to the broadcasting media, and may initiate personal contacts with members of the news media and community service personnel. The HACSD may also utilize public service announcements.

The HACSD will communicate the status of housing assistance availability to other service providers in the community, and advise them of housing eligibility factors and guidelines so they can make proper referrals to those in need of housing assistance.

## **OWNER OUTREACH**

[24 CFR 982.54(d)(5)]

The HACSD makes a concerted effort to keep private owners informed of applicable legislative changes in program requirements.

The HACSD encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

The HACSD encourages participation by owners of suitable units located outside areas of high poverty or minority concentration.

The HACSD conducts periodic meetings with owners, upon request, to improve owner relations and to recruit new owners.

The staff of the HACSD initiates personal contact with private property owners and managers by telephone, or, upon request, at informal discussions and meetings.

Printed material is offered to acquaint owners and managers with the opportunities available under the program.

The HACSD actively participates in community-based organizations comprised of private property and apartment owners and managers.

The HACSD may periodically:

Develop working relationships with owners and real estate broker associations.

Establish contact with civic, charitable and neighborhood organizations, and public agencies which have an interest in housing for low-income.

## **ISSUANCE OF VOUCHERS**

[24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the HACSD issues vouchers to eligible applicants. The HACSD strives to issue enough vouchers to maintain a 100 percent lease-up rate. The HACSD performs a monthly calculation to determine whether applications should be processed, the number of vouchers that can be issued, and to what extent vouchers can be over-issued (issue more vouchers than the budget allows to achieve maximum lease-up rate).

The HACSD will over issue vouchers to the extent necessary to meet leasing goals. All over-issued vouchers will be honored, unless the HACSD has insufficient funds to support the voucher, in which case the voucher will be suspended until there is sufficient funding. If the HACSD finds it is over-leased, it must adjust its future issuance of vouchers so as not to exceed the Annual Contributions Contract (ACC) fiscal year budget limitations.

## **PAYMENT STANDARDS**

[24 CFR 982.503]

The payment standard is the basis for calculating the housing assistance payment for a family. In accordance with HUD regulation, and at the HACSD's discretion, the voucher payment standard amount is between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The HACSD reviews the appropriateness of the payment standard annually upon publication of the new FMRs. The HACSD will adopt a payment standard that is from 90 percent to 110 percent of the most recently published FMR, unless HUD approves an exception payment standard.

The HACSD will establish a single voucher payment standard amount for rental assistance, unless HUD has published more than one FMR area for its jurisdiction. For each FMR area, the HACSD will establish payment standard amounts for each unit size. The HACSD may adopt a FMR of up to 110 percent of FMR, if needed to expand housing opportunities outside areas of minority or poverty concentration. The HACSD may request an exception payment standard or adopt a higher payment standard for its Section 8 Homeownership participants.

The HACSD may also approve a higher payment standard up to 110 percent if FMR, if required as a reasonable accommodation for a family that includes a person with disabilities.

### **ADJUSTMENTS TO PAYMENT STANDARDS**

[24 CFR 982.503]

Payment standards may be adjusted, within HUD regulatory limitations, to increase housing assistance payments to keep family rents affordable. The HACSD will not raise payment standards solely to make "high end" units available to voucher holders. The HACSD may use some or all of the measures below in making its determination of whether an adjustment should be made to the payment standards.

#### **Assisted Families' Rent Burdens**

The HACSD may review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30 percent of their annual adjusted income for rent.

If it is determined that the rents of particular unit sizes in the HACSD's jurisdiction are creating rent burdens for families, the HACSD may modify its payment standards for those particular unit sizes.

The HACSD may establish a separate voucher payment standard, within the basic range, for designated parts of its jurisdiction, if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices, and to give families an opportunity to move outside areas of high poverty and low income.

#### **Quality of Units Selected**

The HACSD may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are needed to reach the mid-range of the market.

#### **Families Rent Burden Analysis**

The HACSD may review the average percent of income that families on the program are paying for rent. If more than 40 percent of families are paying more than 30 percent of monthly adjusted income for a particular unit size, the HACSD may evaluate the number of families renting units larger than their voucher size, or luxury or high-end units, as well as, any additional standards added by the HACSD in this Administrative Plan.

If families are paying more than 30 percent of their income for rent due to the selection of larger bedroom size units or luxury units, the HACSD will decline to increase the payment standard. If this is not the primary reason for families' rent burden, the HACSD will continue increasing the payment standard within HUD regulatory limitations

### **Rent to Owner Increases**

The HACSD may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

### **Time to Locate Housing**

The HACSD may consider the average time period for families to lease up under the voucher program. If voucher holders are unable to locate suitable housing within their voucher term due to unaffordable rents, the payment standard may be adjusted.

### **Lowering of the Payment Standard**

Lowering of the FMR may require an adjustment of the payment standard. Additionally, statistical analysis may reveal that the payment standard should be lowered. In any case, the payment standard will not be set below 90 percent of the FMR, without authorization from HUD.

### **Financial Feasibility**

Before increasing the payment standard, the HACSD may review its budget to determine the impact of projected subsidy increases on funding available for the program, and the number of families served.

For this purpose, the HACSD will compare the number of families served under higher payment standards, to the number assisted under current payment standards.

### **EXCEPTION PAYMENT STANDARDS**

If the dwelling unit is located in an exception area, the HACSD must use the appropriate payment standard amount established for the exception area in accordance with regulation 24 CFR 982.503(c).

## **UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

CFR 5.632, 982.517]

The same utility allowance schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of essential utilities not included in the rent, including, refrigerators, ranges, trash collection, or other tenant-paid services. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The utility allowance schedule must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. However, the HACSD may not include allowances for non-essential utility costs such as, cable, satellite television, telephone, or Internet connection.

The HACSD must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, air conditioning, water heating, water, sewer, trash collection, other electric, refrigerator (for tenant supplied refrigerator), range (for tenant-supplied range); and other specified services.

An allowance for tenant-paid air conditioning will be provided in those cases where the majority of housing units in the market have central air conditioning, or are wired for tenant installed air conditioners [24 CFR 982.517].

Separate utility allowances for certain utilities may be calculated for mobilehomes in parks, and/or or for complexes that charge a flat fee for certain utilities, given the lower amount of these utilities than for other dwelling types.

The HACSD will review the utility allowance schedule annually. If the review finds a utility rate has changed by ten percent (10%) or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at the next reexamination.

The approved utility allowance schedule is given to families along with their voucher. The utility allowances are based on the actual unit size selected.

When families, including mobilehome owners and Section 8 Homeownership participants, provide their own range and refrigerator, the HACSD will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate new or used appliance over a twelve-month period.

When the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 5.632], the HACSD will provide a utility reimbursement payment for the family each month. The check will be issued to the family.

RESERVED



## WAITING LIST

[24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

### INTRODUCTION

**T**he HACSD's objective is to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admission in accordance with the policies in this Administrative Plan.

This chapter explains the local preferences that the HACSD has adopted to meet local housing needs, defines the eligibility criteria for the preferences, and explains the HACSD's system of applying them.

By maintaining an accurate waiting list, the HACSD is able to perform the activities in a manner that ensures an adequate pool of qualified applicants is available for the timely use of program funds.

The policy of the HACSD is to ensure that all families interested in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This chapter describes the policies and procedures for completing an initial application for assistance, the placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the HACSD will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

## **LOCAL PREFERENCES**

[24 CFR 5.410]

The following local preferences are established. When determining equally ranked preferences, the date and time of application is the final deciding factor. Preference points will be assigned as follows:

| Preferences                                      | Points |
|--|--------|
| No ranking preference and not in jurisdiction    | 0      |
| Has ranking preference but not in jurisdiction   | 1      |
| No ranking preference but in jurisdiction        | 1      |
| Has ranking preference and lives in jurisdiction | 3      |

## **RANKING PREFERENCES**

Please refer to the glossary for definitions of the following groups.

### **Category One**

The HACSD uses equally weighted local preferences for applicants, with priorities for those ***who live or work in the HACSD jurisdiction*** and are in one or more of the following categories:

Families with dependent children.

Working Families - (At least one member must have worked at least 32 + hours per week for the previous 12 months. Applicants may combine job training or academic program as part of the previous 12-month requirement. Applicants receiving unemployment, disability, or workman's compensation benefits will be considered qualifying under this preference if those benefits

were the result of 12 continuous months of employment at 32 + hours per week up to the start of the above referenced benefits).

Elderly families (head of household or spouse is 62 years of age or older).

Disabled families (head of household or spouse is disabled).

Veterans or surviving spouses of veterans (other than dishonorable discharge).

Homeless.

### **Category Two**

Applicants who live or work in the HACSD jurisdiction, but who do not fit in Category One.

### **Category Three**

The applicants who *do not live or work within the HACSD jurisdiction*, but are one or more of the following:

Families with dependent children.

Working Families - (At least one member must have worked at least 32 + hours per week for the previous 12 months. Applicants may combine job training or academic program as part of the previous 12-month requirement. Applicants receiving unemployment, disability, or workman's compensation benefits will be considered qualifying under this preference if those benefits were the result of 12 continuous months of employment at 32 + hours per week up to the start of the above referenced benefits)

Elderly families (head of household or spouse is 62 years of age or older).

Disabled families (head of household or spouse is disabled).

Veterans or surviving spouses of veterans (other than dishonorable discharge).

Homeless.

### **Category Four**

All other applicants not indicated above.

## **GENERAL WAITING LIST MANAGEMENT**

[24 CFR 982.204]

The HACSD uses a single waiting list for admission to its Section 8 tenant-based assistance program. The HACSD will not merge its waiting lists [24 CFR 982.20]. However, if the Section 8 waiting list is open when the applicant is placed on the public housing program, another project based voucher program, or the Moderate Rehabilitation Program waiting list, the HACSD must offer to place the family on the tenant-based assistance list.

Moderate Rehabilitation Program applicants may be taken from the Section 8 waiting list.

A family who lives in the jurisdiction of another cooperative housing authority named below will be advised of the benefit of being placed on the appropriate housing authority's waiting list, and the information will be forwarded to the appropriate housing authority upon verbal permission of the family.

### **COOPERATIVE AGREEMENT**

The HACSD and the City of San Diego Housing Commission, along with the cities of Oceanside, National City, Encinitas, and Carlsbad, have a cooperative agreement to honor the application status of applicants who move into their jurisdiction from the jurisdiction of one of the other cooperating agencies.

Each PHA will exchange waiting list applicants, preserving the original time and date of application, for applicants residing in the jurisdiction of the other agency, provided the PHA has an open waiting list during that time period. If not, the applicant will be given the earliest date that the waiting list is reopened.

Upon receipt of applicant information, each housing agency will integrate such applicants into their current waiting list, using the original time and date of application.

Upon applicant request, his/her waiting list application will be forwarded to the housing agencies of the following jurisdictions:

- National City
- San Diego
- Oceanside
- Encinitas (which include Leucadia and Cardiff)
- Carlsbad

The applicant who moves out of the jurisdiction of the HACSD may remain on the HACSD waiting list with the appropriate preference.

### **APPLICATIONS FOR PROGRAM ADMISSION**

All applicants will be selected from the waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

### **Special Admissions**

The HACSD may admit up to ten percent of its annual admissions as special admissions [24 CFR 982.54(d)(3), 982.203]. Special admissions must be funded by special HUD-targeted funding. Examples of this special funding follow:

- A family displaced because of demolition or disposition of a public housing project.

- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project.

- For housing covered under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq).

- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173).

- A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165).

- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term.

- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

### **Taking Applications to the Waiting List**

The HACSD, at the time of preliminary application, will collect the following information necessary for proper selection from the waiting list:

- Applicant name.

- Family unit size (number of bedrooms family qualifies for under HACSD subsidy standards).

- Date and time of application.

Qualification for any local preference.

Gross annual income.

Disabled household.

Racial or ethnic designation of the head of household.

Other targeted program qualifications.

The application for placement on the waiting list may be taken by telephone, mailed to the applicant, or taken from an applicant who visits the office. The HACSD will accept applications by fax or via the internet once the forms and software are in place. All possible reasonable accommodation will be provided to families with persons with disabilities, if requested seven days in advance per the reasonable accommodation policy. This application will not require an interview and the information may not be verified, and eligibility will not be determined, until the applicant's name has reached the top of the waiting list. Preferences may not be verified until final selection from the waiting list [24 CFR 982.207]. The waiting list supervisor may request documentation of eligibility status at anytime.

All applicants, including single applicants, will be treated equally on the waiting list.

An applicant to the waiting list may be, at the discretion of the waiting list supervisor, required to provide verification of eligibility, such as proof of residence or proof of income before placement on the waiting list.

Applicants determined to be ineligible will not be placed on the waiting list. Applicants known to have been previously terminated from the Section 8 Rental Assistance Program for violent or drug related criminal activities that involve sales or production cannot apply for five years from the date of termination. For all other violations, applicants are ineligible to apply for three years from the date of termination. Applicants who owe money to a housing authority cannot apply until the debt is paid.

Applicants are required to inform the HACSD of changes in address. Applicants are also required to respond to requests from the HACSD to update information on their application, or to determine their continued interest in assistance. Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the HACSD by telephone or in writing within 14 days if a change in circumstances.

When an applicant claims an additional preference, s/he will be placed on the waiting list in the appropriate order determined by the newly claimed preference.

Applicants in the waiting list with equal preference status will be organized by date and time.

### **Pulling Applicants from the Waiting List**

Applicants will not be pulled from the waiting list for eligibility processing unless funding is available. Applicants will be pulled by preference group and income targeting guidelines, once funding is available, in proper order as determined by their date and time of placement on the waiting list. The method of selection off the waiting list will be clearly documented [24 CFR 982.207(e)].

### **RETURN TO THE WAITING LIST**

#### **Applicants who Must Reapply**

Applicants who reapply to be placed back on the waiting list will be positioned on the waiting list as of the date and time they reapply.

If the family declines the offer of a voucher, the family will not be eligible to be returned to the waiting list. The family must reapply to the waiting list.

A family whose application is denied for failure to provide information must reapply to be placed back on the waiting list.

A family found ineligible for assistance must reapply to be placed back on the waiting list.

Applicants found ineligible for assistance because they exceed the current HUD published Section 8 income limits must reapply to be placed back on the waiting list.

#### **Applicants Reinstated at Original Date and Time of Application**

Applicants may be reinstated on the waiting list if they contact the HACSD within six months of their denial and if it is found their mail was returned to the HACSD by the post office.

Applicants may be reinstated on the waiting list if they contact the HACSD within six months of their denial, and if they can provide convincing documentation indicating why they did not receive their mail (police report around the time of the denial regarding stolen mail, letter from the post office indicating it had received complaints of missing mail around the time of the denial, etc.). Applicants who did not receive their mail because they failed to report a change of address to the HACSD must reapply for placement on the waiting list.

A verification from a qualified medical professional indicating why the applicant should be reinstated as a reasonable accommodation may be sufficient documentation to reinstate the applicant on the waiting list if that applicant was denied or removed from the waiting list for failure to respond.

Applicants removed from the waiting list due to a waiting list purge in which only one purge letter is mailed, may be reinstated at their original date and time of application if they provide documentation to demonstrate their address had not changed at the time of the purge and they had maintained that address continuously until they reported an address change, and/or if records indicate the applicants had reported changes of address in a timely manner.

### **Applicants Returned to the Waiting List at Original Date and Time of Application**

If the family requests its name be returned to the waiting list at its former date and time of application prior to the completion of the eligibility process, the family may be returned to the waiting list as inactive unless it has been determined the family is ineligible.

Otherwise eligible applicants pulled from the waiting list and found not to meet preference or income-targeting requirements will be returned to the waiting list at original date/time of application.

### **CHANGE OF HOUSEHOLD WHILE ON THE WAITING LIST**

The HACSD will not change the head of household unless it receives either: (1) notarized statement from the head of household requesting the head of household be changed; (2) death certificate, if head of household died **and** proof that the person requesting to become head of household was a significant other who resided with that person at the time of that person's death (utility bills and lease agreement reflecting address on record, marriage certificate, joint bank account statements, jointly owned property, etc.).

An estranged significant other may be allowed to take the place of the head of household if s/he can provide documentation indicating s/he resided with the head of household at the address reflected on the waiting list records and was part of the head of household's family unit (lease agreement, notarized statement from property owner, joint bank account or other property). Before this change is made, a letter must be mailed to the head of household advising him/her that a request has been made to change his/her status on the waiting list. S/he will be advised that s/he will be dropped from the waiting list if s/he does not respond within 14 days. If there is no response by the deadline, a phone call will be attempted and documented. After



that, providing the requester provides adequate documentation, the head of household may be changed to the remaining significant other. All documentation of this action must be retained for five years.

Information regarding a person's waiting list status may only be provided to the applicant. The HACSD must receive a written release of information from the applicant before information will be provided to a third party.

### **POINT IN TIME THAT FAMILY MUST BE ELIGIBLE FOR PROCESSING**

A family selected off the waiting list is determined eligible or not eligible for eligibility processing based on the information provided on the eligibility declaration, the supporting documents submitted, and independent verification by the HACSD. The family must be eligible for the preferences it has claimed, income limits and targeting, and jurisdiction priority as of the time it was pulled off the waiting list.

A family change in circumstances after the date the family was pulled off the waiting list for eligibility processing will not be evaluated for a possible change in preference status, jurisdiction, income limits and targeting, unless the family change in circumstances, prior to voucher issuance, results in the family's income exceeding 50% of area median income, in which case, the family must be denied program admission. If the family is determined to be ineligible as of the date the family was pulled from the waiting list, the family will be required to reapply to the waiting list. The following scenarios are handled as follows:

#### **Scenario Number One**

A family met admission preferences and income targeting requirements as of the point of time of being pulled from the waiting list, but during the full application process, the family moved outside of the HACSD's jurisdiction. The family may continue to be processed for admission.

#### **Scenario Number Two**

A family was over income at the time it was pulled from the waiting list, but then the income was reduced as a result of termination of employment. The family must be denied as being over income at the time it was pulled off the waiting list and must reapply.

#### **Scenario Number Three**

A family was at or below 30% of area median income at the time it was pulled from the waiting list, and then its income increased to over 30% of AMI but below 50% of AMI prior to completion of the full application and issuance of the voucher. The family met the income targeting requirements when it was pulled off the waiting list and is still income-eligible at completion of the full application and issuance of the voucher, so the family may be processed for admission.

#### **Scenario Number Four**

The family was income-eligible at the time it was pulled from the waiting list, but started working prior to the completion of the full application, which resulted in the family's income exceeding 50% of the AMI. The family must be denied as over-income and future changes in the family's circumstances cannot be considered, e.g., the family member quits his/her job. The family must reapply to the waiting list.

#### **Scenario Number Five**

The family's income increases after it was issued a voucher. The income increase, per the HACSD interim policy, will not be processed until the family's next annual reexamination after the family leases into an assisted unit.

#### **INCOME TARGETING**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the HACSD will reserve a minimum of seventy-five percent (75%) of its Section 8 new admissions for families whose income does not exceed thirty percent (30%) of the area median income. HUD refers to these families as extremely low-income families. The HACSD will admit families who qualify under the extremely low-income limit to meet the income-targeting requirement, regardless of preference. The HACSD's income-targeting requirement does not apply to low-income families continuously assisted as provided for under the 1937 Housing Act. The HACSD is also exempted from this requirement when providing assistance to low income or moderate-income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out. The HACSD may, at least annually, exercise the "fungibility" provision of the QHWRRA. This provision allows the HACSD to admit less than the required minimum forty percent (40%) of extremely low-income families in a fiscal year to its public housing program, if the admission of extremely low-income families in the tenant-based assistance program exceeds seventy-five percent (75%) of all admissions during the fiscal year. Upon exercising this option, the HACSD will follow the fungibility threshold limitations as set forth in QHWRRA legislation. The HACSD determined fungibility procedures are reflected in its public housing admissions and continued occupancy policy.

#### **OTHER HOUSING ASSISTANCE**

[24 CFR 982.205(b)]

Other housing assistance means: a federal, state, or local housing subsidy, as determined by HUD, including public housing.

If an applicant has applied for, received, or refused other housing, the HACSD will not: [24 CFR 982.205(b)]

Refuse to list the applicant on the HACSD waiting list for tenant-based assistance

Deny appropriate admission preferences to a qualified applicant

Change the applicant's appropriate ranking order on the waiting list

Remove the applicant from the waiting list

However, the HACSD may remove the applicant from the waiting list for tenant-based assistance, if the applicant has refused voucher program assistance.

### **PURGING**

The waiting list will be purged periodically to ensure that it is current and accurate. In order to purge the waiting list, a notice will be mailed asking applicants for confirmation of continued interest. All notices requiring a response will state that failure to respond within fourteen days will result in the applicant's name being inactivated on the waiting list. If the applicant provides information that s/he did not respond to the notice because of a family member's disability, the HACSD will reinstate the applicant at the original date and time of application. The family will also be reinstated if it can provide documentation it was at the purge address at the time of the purge and resided there continuously until an address change was reported, and if records reflect the family reported all subsequent address changes in a timely manner.

### **OPENING/CLOSING THE WAITING LIST**

[24 CFR 982.206, 982.54(d)(1)]

It is generally the policy of the HACSD to not close the waiting list. However, the HACSD may stop accepting applications, if the waiting list contains enough applicants to fill anticipated openings for the next 24 months. The HACSD will give at least 30 days' notice prior to closing the list. The waiting list will not be closed if it has a discriminatory effect inconsistent with applicable civil rights laws. If the HACSD closes its waiting list, it will advertise its reopening through public notice in the following newspapers, minority publications and media entities, location(s), and program(s) for which applications are being accepted:

The notice will contain:

The dates, times, and the locations where families may apply

The programs for which applications will be taken

A brief description of the program

A statement that public housing residents must submit a separate application if they want to apply for section 8

Limitations, if any, on who may apply

The notices will be provided in an accessible form, including radio and/or television broadcasts, presentations to organizations that provide assistance to special population groups, such as the elderly, or the disabled, as well as published notices. The notices will provide potential applicants with information that includes the HACSD address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time will be given as a reasonable accommodation for submission of an application after the closing deadline. This reasonable accommodation is to allow persons with disabilities the greatest possible opportunity to submit an application.

## ELIGIBILITY FOR ADMISSION AND PARTICIPATION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

### INTRODUCTION

**T**his chapter defines both HUD and the HACSD's criteria for admission and ongoing participation to the program. The policy of the HACSD is to strive for objectivity and consistency in applying the criteria to evaluate the eligibility of families who apply. The HACSD staff will review all information provided by the family carefully and without regard to factors other than those defined in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision by the HACSD regarding eligibility.

The HACSD may deny or terminate assistance for a family because of the family's action or failure to act. The HACSD will provide families with a written description of the family obligations under the program, the grounds under which the HACSD can deny or terminate assistance, and the HACSD's informal hearing or informal review procedures. This chapter describes when the HACSD is required to deny or terminate assistance, the policies for the denial of a new commitment of assistance, and the grounds for termination of assistance under an outstanding HAP contract.

### DENIAL/TERMINATION

[24 CFR 982.552, 982.555]

If denial of admission, or termination of assistance, is based on behavior due to a disability, the HACSD may delay the denial or termination in order to determine if the problem could be corrected by reasonable accommodation. For example, a visually impaired person who fails to return information because the request for information was in writing may be determined to need a reasonable accommodation in order to comply with the requirements of the program. In this scenario, the HACSD will make

a reasonable accommodation, upon request, to call the person to tell him/her of the information that is needed.

### **FORM AND FORMAT FOR DENIAL/TERMINATION**

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the waiting list
- Denying a voucher or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a tenancy
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a tenancy
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under transfer or portability procedures.

The HACSD will screen all incoming portability admissions and participants for criminal history and registered sex offender status and all portability new admissions will be evaluated for income eligibility and must be at or below 50% of area median income for the HACSD jurisdiction.

The HACSD may screen all program participants for criminal activities on a regular basis.

Applicants and participants will be notified of denial or termination of assistance in writing on HACSD approved notices and advised they will have 14 days from the date of the notice to request an informal review or hearing. The notices will contain a full explanation of the reason(s) for termination/denial, including a full description of crimes or actions of the family, and the sections of the Code of Federal Regulations that provide authority for the denial or termination of assistance. A request form will be provided for applicants or participants to request informal reviews or hearings.

All requests for an informal hearing or review must be in writing and must be received by the HACSD within 14 days of the date of the denial or termination notice.

### **PURPOSE OF SCREENING APPLICANTS AND PARTICIPANTS**

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell a controlled substance illegally, or terrorize neighbors. It is the intention of the HACSD to fully endorse and implement a policy designed to:

Help create and maintain a safe and drug-free community

Keep program participants and their families free from threats to their personal safety

Support parental efforts to instill values of personal responsibility and hard work

Help maintain an environment where children can live safely, learn and grow up to be productive citizens

Assist families in their vocational/educational goals in the pursuit of self-sufficiency

### **SCREENING PROCESS**

All screening and termination of assistance procedures shall be administered fairly, and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, gender, or other legally protected groups.

To the maximum extent possible, the HACSD will involve other community and governmental entities in the promotion and enforcement of this policy.

This policy will be provided to applicants and participants upon request.

### **ELIGIBILITY FACTORS**

[982.201(B)]

### **HUD DEFINITIONS**

"Engaged in or engaging in" violent criminal activity means any act within the past five years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, which may or may not have

resulted in the arrest and/or conviction of the applicant, participant, or household member.

The HACSD prohibits the illegal use of all controlled substances as defined under federal guidelines.

*Covered person*, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Guest*, for purposes of this chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

*Household*, for the purposes of 24 CFR Part 982 and this chapter, means the family and PHA-approved live-in aide.

*Other person under the tenant's control*, for the purposes of the definition of *covered person* and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### **UNIQUE ADMISSION ELIGIBILITY FACTORS**

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the HACSD. In an effort to prevent future illegal drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the HACSD will screen applicants as thoroughly and fairly as



possible for illegal drug-related activities, alcohol abuse activities, sex offender registration requirement, and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older; however, evidence of prohibited criminal activities conducted by minors in the household will also be cause for denial or termination of assistance.

Admission to the program is **never** based on [982.202(b)]:

Where a family lives prior to admission to the program

Where the family will live with assistance under the program

Discrimination of a family, because it includes unwed parents, recipients of public assistance, or children born out of wedlock

Discrimination of a family, because it includes children

A family's participation in a family self-sufficiency program

Other reasons as listed in under the "Fair Housing and Reasonable Accommodations" sections

Eligibility criteria include:

An applicant must be a "family" The HACSD definition of a family is one or more individuals sharing a household.

The applicant's income [24 CFR 982.201(b), 982.353] must be within the appropriate income limits. To be eligible for assistance, an applicant must:

Have an annual income at the time of admission that does not exceed the income limits for occupancy established by HUD.

An unborn child is not considered when determining the income limit. For example, a pregnant single is considered a one-person household when determining the income limits.

A pregnant single person is no different than any other single applicant and is **not** considered a family with dependent children for admission preference purposes.

To be income eligible, the applicant's family income cannot exceed the very low-income category, which is income that does not exceed 50 percent of the area median income. The HACSD will not admit families whose income exceeds 50 percent of the area median income, except those families included in 24 CFR 982.201(b).

To be income eligible, the family may be under the low-income limit in any of the following categories: [24 CFR 982.201(b)]

A very low-income family

A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received federal assistance under the 1937 Housing Act within 120 days of voucher issuance

A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511

A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project

A low-income non-purchasing family residing in a project subject to homeownership programs under 24 CFR 248.173

A low-income family or moderate-income family that is displaced as a result of the prepayment of a mortgage, or voluntary termination of mortgage insurance contract under 24 CFR 248.165

A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program

To determine if the family is income-eligible, the HACSD compares the annual income of the family to the applicable income limit for the family's size.

Families, whose annual income exceeds the income limit, will be denied admission, removed from the waiting list, and offered an informal review.

Portability: For initial lease at admission, families who exercise portability must be within the applicable income limit of the receiving PHAs. This requirement does not include those who had been participants with the initial PHA.

The HACSD accepts applications only from families whose head or spouse is at least 18 years of age, or emancipated minors under state law.

A homeless applicant must certify in writing that s/he meets the residency preference, and must provide documentation that s/he has lived somewhere in San Diego County.

The family at program admission must be taken from the waiting list in order of preference and income targeting guidelines. A family found to not meet the current preference and/or income-targeting guidelines will be offered an informal review and returned to the waiting list.

## **Criminal Activity**

Persons **evicted** from federally assisted housing because of drug-related criminal activity, for personal use, are ineligible for admission to the Section 8 program for a three-year period beginning on the later of the date of the arrest, or eviction, or termination from a federal assistance program, and ending on the date of the eligibility interview. Persons involved in illegal drug sales and illegal drug trafficking related drug activities of any kind are ineligible for admission to the Section 8 program for a five-year period beginning on the later of the date of the arrest, or eviction, or termination from a federally assisted program, and ending on the date of the eligibility interview.

However, the household may be admitted if, after considering the individual circumstances of the household, the HACSD determines that:

The evicted household member who engaged in drug-related criminal activity for personal drug use has successfully completed a supervised drug rehabilitation program approved by the HACSD

The circumstances leading to eviction no longer exist because:

The criminal household member has died.

The criminal household member is imprisoned.

The criminal household member is no longer in the household and is unlikely to return to visit the family.

Applicants will be denied assistance and not admitted to the program:

If they have been arrested, convicted, or evicted from Federally assisted housing for violent criminal activities within the last five years prior to the date of the eligibility interview.

If any member of the family has been evicted from federally assisted housing for serious violations of the lease, or drug related criminal activities for personal use, within the past three years prior to the current eligibility interview [982.552(b)].

If any member is subject to a lifetime registration requirement under a state sex offender registration program [982.552(b)].

If any member has been convicted of production or manufacture of methamphetamine on Federally assisted property [982.552(b)].

If they fail to meet the preference and income targeting requirements at the time of selection.

If they exceed the income limits.

If, as a past Section 8 program participant, any member violated an important family obligation, other than for illegal drug or criminal activities, within the past three years prior to the current eligibility interview. The HACSD may make an exception, if the family member who violated the family obligation is no longer in the household.

Other criteria as outlined in the next section.

The family must, within seven days of notice, pay any outstanding debt owed the HACSD, or another PHA as a result of prior participation in any federal housing program.

The family must be in compliance with any payment agreement made with a PHA for a previous debt incurred.

### **ADMISSION AND PARTICIPATION ELIGIBILITY FACTORS**

24 CFR 982.551, 982.552, 982.553

The HACSD will deny participation in the program to applicants and terminate assistance to participants in cases where the HACSD determines there is reasonable cause to believe that a household member has or is illegally using a controlled substance, committing violent criminal acts, or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the HACSD determines that there is a pattern of alcohol abuse.

The HACSD will determine the use of alcohol to reflect a pattern of abuse, if there are two or more incidents during the previous twelve months.

Applicants or participants who have been found to engage in violence, or illegal drug activities that involve, sales, trafficking, manufacture, or possession for sales, are prohibited from program participation for five years from the date of the act or conviction, or eviction or termination from federally assisted housing, whichever is later.

Applicants or participants involved in the personal use of illegal drugs are prohibited from the program for one year from the later of either the act or the conviction, unless documentation is provided of successful rehabilitation. Those evicted from

federally assisted housing for personal drug use are ineligible for assistance for three years from latter of the date of the conviction, eviction or termination of assistance.

Participants found to be subject to sex offender registration requirements under a state sex offender registration program may be terminated from the program under the authority to terminate assistance for past violent criminal behavior. All applicants subject to state sex offender registration requirements will be denied. Live-in aides or foster children who are found to be subject to a state sex offender registration requirement of a state sex offender registration program will **ALWAYS** be disapproved for occupancy of the assisted unit, as will all additions to the household and all new admissions to the program.

The existence of prohibited behavior by any household member, regardless of the applicant or participant's knowledge of the behavior, shall be grounds for denial or termination of assistance.

The HACSD will research criminal history for all adults in the household. The criminal history will be used to determine whether any member of the family has violated any of the prohibited behaviors such as:

During the participation prohibition period or while currently assisted, a family member has violated any family obligation under 24 CFR 982.551 -- not to engage in any drug-related criminal activity.

During the participation prohibition period or while currently assisted, a family member has violated any family obligation under 24 CFR 982.551 -- not to engage in any violent criminal activity.

During the participation prohibition period or while currently assisted, any member of the family engages in, or has engaged in, illegal drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents.

For participants, "currently engaging" means anytime while the participant was on the program he/she was involved in illegal drug activities.

The HACSD must permanently deny assistance to applicants, and terminate the assistance of program participants convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

Admission will be denied if the act occurred within the last five years, or assistance will be terminated if any member of the family has engaged in or threatened abusive or violent behavior toward PHA personnel or anyone else.

"Abusive or violent behavior towards PHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

"Threatening" refers to oral or written threats or physical gestures that communicate the intent to abuse or commit violence.

The HACSD may waive the requirement for termination or denial for drug-related criminal activity, if it was for personal use, and if:

The person demonstrates successful completion of a credible rehabilitation program approved by the HACSD, and the violation did not occur while the family was being assisted. If a family member engaged in this activity while being assisted, assistance will always be terminated.

The HACSD may waive the requirement regarding denial or termination for drug-related, alcohol abuse, or violent criminal activities if:

The circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration. The person is unlikely to return to visit or live with the family.

The evidence the act occurred is weak, such as an arrest report that indicates the family member was detained and released. In this case, the HACSD may request additional evidence, such as a police report.

## **Prohibition Periods for Some Offenses for Applicants and Participants**

| <b>Lifetime</b>  | <b>Indefinitely</b>   | <b>Five Years</b>   | <b>Three Years</b>  | <b>One Year</b>  |
|--|---|---|---|--|
| <p>Subject to lifetime sex offender registration under the state sex offender registration program.</p> <p>Participants may be terminated from the program as a previous violent criminal activity depending on the seriousness of the offense</p> | <p>Currently engaging in illegal drug activities including: use, production, or sales.</p> <hr/> <p>Owes money or rent to any PHA.</p>                                  | <p>Previous violent criminal activity. See definition below.</p>  | <p>From date of <u>eviction</u> from any federally assisted housing for illegal drug activities for personal drug use. (Does not apply with evidence of rehabilitation or violator absent.)</p> | <p>Illegal drug use, or possession for personal use, unless a family obligation was violated at the same time, then the three- year prohibition period applies.</p> <p>(One year does not apply, if proof of completing rehabilitation program is provided.)</p> |
| <p>Convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.</p>  | <p>Pattern of abuse, or abuse of alcohol that interferes with the health, safety, or right to peaceful enjoyment of others.</p>   | <p>Previous illegal drug-related criminal activity, that involves: sales, transportation, manufacture, or possession for sale.</p>                          | <p>From date of termination of federal assistance for a violation of an important family obligation, except drug-related or violent criminal activities.</p>                                    |  |
|  | <p>Currently engaging in violent criminal activity. See definition below.</p>   | <p>Previous other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises of others.</p>                   | <p>From date of eviction from federally assisted property for lease violations.</p>   |  |
|  | <p>Actively engaging in other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises of others.</p>                   | <p>Previous other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor or agent of the PHA</p> | <p>From date of discovery for having committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.</p>  |  |
|  | <p>Actively engaging in other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor or agent of the PHA</p> |   |   |  |

If any applicant/participant deliberately misrepresents the information or provides untrue or incomplete information on which eligibility or tenant rent is established, the HACSD may deny or terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

The family must provide verification of social security numbers [24 CFR 5.216, 5.218], prior to admission, for all family members age six and older, including live in aides and foster children, who have been issued a social security number by the Social Security Administration. Failure to furnish verification of social security numbers is grounds for denial or termination of assistance. A person not issued a social security number must sign a certification of not being issued a social security number. Persons who disclose their social security numbers, but cannot provide verification, must sign a certification, and provide verification within 60 days. Elderly persons must provide verification within 120 days.

A family will be denied admission to the program, if any member of the family, including live in aides, fails to sign and submit consent forms for obtaining information required by the HACSD, including Form HUD-9886.

In order to receive assistance, at least one family member must be a United States citizen, or eligible immigrant [24 CFR Part 5, Subpart E]. The HACSD will not provide assistance to families prior to the determination of the eligibility of at least one family member, pursuant to this section. For this eligibility requirement only, the applicant is entitled to an informal hearing and not an informal review. Individuals, who cannot demonstrate legal residency, may elect not to contend their status. Eligible immigrants are persons who are in one of the HUD-specified immigrant categories. For the citizenship/eligible immigration requirement, the status of each member of the family, except live in aides and foster children, is considered individually before the family's status is defined. The following determinations are made based on the verification of family status:

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

All members ineligible. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. Defined by HUD in the non-citizen regulations at CFR 5.522. Not eligible for assistance.

The family will be denied admission or continued assistance if it is found a member of the family has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program. The family will not be allowed to reapply to the waiting list for three years after the latter of the date of discovery or termination of program participation.



The family will be denied admission or continued assistance if it currently owes rent or other amounts to the HACSD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act or if it is found that the family owes any money to a housing agency or that an active repayment agreement is in arrears.

### **UNIQUE ONGOING PARTICIPATION ELIGIBILITY FACTORS**

The HACSD must terminate assistance for participants, if the family is under contract and 180 days (or 12 months, depending on the HAP contract used) have elapsed since the HACSD's last housing assistance payment was made. The HACSD may not enter into a HAP contract if the family is ineligible for assistance.

The HACSD will terminate program participation of participants found to have engaged in drug-related or violent criminal activities of any kind while participating in the program. On a case-by-case basis, the offender may be allowed to leave the household so that the remaining family may continue to receive assistance if it is unlikely the offender will return to visit or live with the family, and providing the family has no history of violating program obligations.

The HACSD may deny issuance of a voucher for transfer purposes, and terminate assistance for participants, found to be subject to a lifetime registration requirement under a state sex offender registration program under the denial for violent criminal activities regulations. In making its determination, the HACSD will evaluate the following factors: the length of time since the offense occurred, if there were multiple offenses, if there were multiple victims, the circumstances of the offense, the amount of harm to the victim(s), the ages of the victims, the evidence of rehabilitation, and the likelihood of the offense reoccurring.

The HACSD will screen the criminal history of all participants prior to issuance of a voucher for transfer purposes.

The HACSD must terminate program assistance, if the family is evicted for a serious or repeated violation of the current lease, or if there is evidence the family has committed serious or repeated lease violations.

The family's program assistance may be terminated for a violation of any family obligations [24 CFR 982.551]. The deciding factors will be any history of previous violations, if the violation was intentional, the impact on the HACSD and the owner, and the family's speed in correcting the violation, and other mitigating circumstances. Family obligations include:

The family must supply any information that the HACSD or HUD determines is necessary to administer the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR

982.551). "Information" includes any requested certification, release or other documentation.

The family must supply any required information requested by the HACSD or HUD, for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

The family must disclose and verify social security numbers (as provided by 24 CFR 5.216), and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.

All information supplied by the family must be true and complete.

The family is responsible for an HQS breach caused by the family as described in CFR 982.404(b).

The family must allow the HACSD to inspect the unit at reasonable times and after reasonable notice.

The family may not commit any serious or repeated violations of the lease.

The family must notify the owner and, at the same time, notify the HACSD before the family moves out of the unit, or terminates the lease upon notice to the owner.

The family must promptly give the HACSD a copy of any owner eviction notice.

The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

The HACSD must approve the composition of the assisted family residing in the unit. The family must promptly inform the HACSD of the birth, adoption, return of a disabled or minor child to the family, or court-awarded custody of a child. The family must request HACSD approval to add any other family member as an occupant of the unit or if more than one child is being added to the household. The family is not eligible for a larger voucher size for new family members, unless the addition was by birth, adoption, foster child, live-in aide, return of a disabled or minor child to the family, or court-awarded custody of a child.

The family must promptly notify the HACSD if a family member moves.

If the HACSD has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or the HACSD approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to the primary use of the unit as a residence by members of the family, do not cause damage or a nuisance, and the property owner has given permission for such activities. If the HACSD determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the owner legally disallows the profit-making activity in the unit, it will be considered a program violation. If the HACSD determines the business is not legal, it will be considered a program violation. If the HACSD determines the business is not legal, it will be considered a program violation.

The family must not sublease or let the unit.

The family must not assign the lease or transfer the unit.

The family must supply any information or certification requested by the HACSD to verify that the family is living in the unit, or to document a family absence from the unit. The family must cooperate with the HACSD for this purpose. The family must notify the HACSD, within 14 days, of temporary absence from the unit. The family must notify the HACSD prior to moving from the unit.

The family must not own or have any interest in the unit regardless of whether s/he is a member of the family, with the exception of a mobilehome owner renting the pad.

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. For example, a live-in aide with a history that falls under this section will not be granted admission.

The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, state or local housing assistance program.

For PHAs that have a Section 8 welfare-to-work program, assistance will be terminated if the family has failed to fulfill its obligation under that program. The HACSD does not currently have a welfare-to-work voucher program.

## VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; 24 CFR 982.158; 24 CFR 5.617]

### INTRODUCTION

The HACSD must verify eligibility, total tenant payment, and family share in accordance with HUD regulations. The HACSD staff will obtain written documentation from independent sources whenever possible, and whenever third party verifications are not obtained, will attempt to obtain oral third party verifications, and will always document why third party verifications were not used.

Applicants and program participants must provide true and complete information to the HACSD whenever information is requested. The HACSD's verification requirements are designed to maintain program integrity. This chapter explains HACSD's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The HACSD will obtain proper authorization from the family before requesting information from independent sources.

### METHODS OF VERIFICATION AND TIME ALLOWED

[24 CFR 982.516]

The HACSD will verify information through the four methods of verification, acceptable to HUD, in the following ranking order:

1. Third-party written (must be received directly from the third party)
2. Third-party oral (in person or via telephone directly from the third party)
3. Documents provided by family (e.g., pay stubs, bank statements, or social security award letters)
4. Certification/self-declaration

The HACSD will allow seven days for the return of written third-party verifications before going to the next method, which is oral verification. The HACSD will document the file as to why third party written verifications were not used.

For applicants, verifications may not be more than 60 days old at the time of voucher issuance. For participants, verifications are valid for 120 days from date of receipt.

### **THIRD-PARTY WRITTEN VERIFICATION**

Third-party written verifications must be received **directly** from the third parties. The family will be required to sign an authorization for release of information to allow the third parties to release requested information.

Verifications received from the third party electronically via computer e-mail, by fax machine, via an on-line database system, or directly from the source, are considered written third party verifications.

### **THIRD-PARTY ORAL VERIFICATION**

Oral third-party verifications will be used when written third party verifications are delayed or not possible. When a third-party oral verification is used, staff will be required to notate in the file: the name of the person contacted, the date of the conversation, and the facts provided. If the third-party verification is provided by telephone, the HACSD must originate the call.

The HACSD will not delay the processing of an application beyond 14 days because a third party information provider does not return the verification in a timely manner.

### **DOCUMENTS ACCEPTED AS VERIFICATION**

If neither written nor oral third party verifications is received within seven days of the request, the HACSD will accept verifications in the form of documents, letters, or computerized printouts delivered by the family. Clear and legible documents from the following agencies are acceptable:

|                                 |                             |
|---------------------------------|-----------------------------|
| Social Security Administration  | EDD                         |
| Veterans Administration         | Law Enforcement Agencies    |
| Welfare Assistance              | Retirement Agencies         |
| Unemployment Compensation Board | Investment Companies        |
| City or County Courts           | Banks                       |
| Employers                       | Life Insurance Companies    |
| Investment Groups               | Other documents from source |

### **SELF-CERTIFICATION/SELF-DECLARATION**

When verification cannot be made by third-party verification or documents provided by the family, families are required to submit a notarized self-certification.

A notarized self-certification means a family signed and dated affidavit/certification/statement under penalty of perjury in the presence of a notary public.

## **RELEASE OF INFORMATION**

[24 CFR 5.230]

All required releases must be completed “as is” by all adult family members. Family members are not allowed to cross out, amend, add, or in anyway alter the forms. To do so is a program violation.

Adult family members must sign the *HUD 9886 Release of Information/Privacy Act* form.

Adult family members are those who are expected to be 18 years of age or older at the time of annual recertification, transfer, or final eligibility determination.

In addition, adult family members must sign additional release of information authorization forms, not covered by the above HUD required form.

All adult family members, required to sign release of specific information forms, will be provided copies of the forms for their review and signature.

A family's refusal to cooperate with the HUD prescribed verification requirement will result in denial of admission or termination of assistance, for violation of the family obligation to supply any information, and to sign consent forms requested by the HACSD or HUD.

## **CRIMINAL RECORDS**

The HACSD verifies the criminal history of all adults at the time of program admission, adults admitted to the assisted household, adult family members who port into the jurisdiction of the HACSD, all adult family members transferring to another assisted unit and may verify the criminal history of all adult program participants on a regular basis. The verification is conducted by researching criminal history, including status of a family member subject to a sex offender registration requirement of a state sex offender registration program, by accessing the database of the San Diego County Sheriff's Department or sending written inquiries to states where the adult members are known to have lived.

The HACSD will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed, will be housed in a secure area with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance, as well as management.

The HACSD will document in the family's file the circumstances of the criminal activities.

## **COMPUTER MATCHING**

HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information, and compare it to information submitted by the HACSD on the 50058 forms. HUD can disclose social security information to PHAs, but is precluded by law from disclosing federal tax return data to PHAs. If HUD receives information from federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose the information to the PHA (24 CFR 5.240). HUD's letter to the family will also notify the family that HUD has notified the PHA in writing that the family has been advised to contact the PHA. HUD will send the PHA a list of families who have received "income discrepancy" letters.

When the HACSD receives notification from HUD that a family has been sent an "income discrepancy" letter, the HACSD will:

Wait 40 days after the date of notification before contacting the tenant.

After 40 days, the HACSD will contact the tenant by mail, requesting the letter or other notice from HUD concerning the amount or verification of family income.

The HACSD will place a copy of the letter to the family in the tenant file

When HACSD receives the required information, it will verify the accuracy of the income information provided by the family, review the HACSD interim recertification policy, identify unreported income, charge retroactive rent, as appropriate, change the rent, or terminate assistance, as appropriate.

If the amount of rent owed to the HACSD exceeds \$1000, the HACSD may seek to terminate assistance.

If the participant fails to respond to the HACSD:

The HACSD will ask HUD to send a second letter with a verified tenant address.



After an additional 40 days, the HACSD will ask HUD to send a third letter.

After an additional 40 days, the HACSD will send a warning letter, advising the family of the action to be taken if it does not contact the HACSD within two weeks.

If the participant claims a letter from HUD was not received:

The HACSD will ask HUD to send a second letter with a verified tenant address.

After 40 days, the HACSD will contact the family.

If the family claims it has not received a HUD letter, the HACSD will ask HUD to send a third letter.

After an additional 40 days, the HACSD will set up a meeting with the family to complete IRS forms 4506 and 8821.

If the family fails to meet with the HACSD, or refuses to sign the IRS forms, it will be issued a warning letter indicating that termination proceedings will begin in one week, if the family fails to meet with the HACSD and/or sign IRS forms.

If the participant does receive a discrepancy letter from HUD:

The HACSD will schedule a family meeting.

If the family fails to attend the meeting, the HACSD will reschedule the meeting.

If the family fails to attend the second meeting, the HACSD will send a termination warning.

The family must bring the original HUD discrepancy letter to the HACSD.

If tenant disagrees with the federal tax data in the HUD discrepancy letter, the family must provide documented proof of incorrect tax data.

If the family does not provide document proof of incorrect tax data, the HACSD will obtain proof of tax data using third party verifications.

## ITEMS TO BE VERIFIED

[24 CFR 982.516]

Reported family annual income.

Expenses related to deductions from annual income.

Full-time student status for students, including high school students, who are or who will be eighteen years of age or over at the time of final initial or annual eligibility determination.

Current assets, including assets disposed of for less than fair market value in proceeding two years.

Childcare expenses if it allows an **adult** family member to be employed or go to school.

Total medical expenses of all family members in households whose head or spouse is elderly or disabled.

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an **adult** family member to be employed.

Disability for determination of preferences, allowances or deductions.

U.S. citizenship/eligible immigrant status.

Social security numbers for all family members, six years of age or older, who have been issued a social security number.

"Preference" status.

Marital status when needed for head or spouse definition.

Verification of reduction in benefits for noncompliance, such as GAIN sanctions of CalWorks benefits.

The HACSD will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance **before** denying the family's request for rent reduction.

## **VERIFICATION OF WAITING LIST PREFERENCES**

[24 CFR 982.207]

Residency Preference: This preference applies to families who live, work or have been hired to work, in the jurisdiction of the HACSD. Acceptable documentation includes two or more of the following documents that indicate the current reported resident or employment address:

Rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, bank statements, benefits award letter or, statement from household with whom the family is residing.

Families who claim to work in the jurisdiction of the HACSD must provide an employer's verification and copies of pay stubs.

Veterans Preference: This preference is available to current members of the U.S. military armed forces, veterans, or surviving spouses of veterans.

The HACSD will require U.S. government documents that indicate that the applicant qualifies under the above definition.

Working Preference: This preference is available to families with at least one member who was employed at least 32 hours per week for the last twelve months, or to families whose head or spouse is receiving income based on their inability to work. The HACSD will require a statement from the employer, and may require copies of pay stubs, federal income tax returns, or other documentation.

Educational/Training Participants: Participation in educational or training programs may be used to augment a shortage in the working requirement. The HACSD will require a statement from the agency or institution providing the education or training, indicating the time committed to the educational or training program for the last twelve months.

Disability Preference: This preference is available to families with a head of household or spouse who is a person with disabilities as defined by HUD.

The HACSD will require appropriate documentation from a knowledgeable professional. The HACSD will not inquire as to the nature of the disability, but may ask a knowledgeable health professional to confirm that a certain unit size is necessary due to the person's disability.

Another acceptable documentation of disability is either an award letter, or other proof of eligibility for social security disability or supplemental security income.

Elderly Preference: This preference is available to families with a head of household or spouse who is age 62 years or older.

The HACSD will require appropriate proof of age as verified by submittal of one or more of the following documents:

- Birth Certificate
- Passport
- Drivers License
- Resident Alien Card

Homeless Preference: Homeless applicants must provide documentation indicating they were residing in San Diego County around the time they were selected off the waiting list. Verification of this factor may be documented by the following:

- Drivers License
- Automobile Registration
- Documentation from San Diego County benefit provider
- Receipts from stores, restaurants, motels, etc.

In addition, if no documentation is available to demonstrate the applicant was living specifically in the jurisdiction of the HACSD, a self-certification will be accepted.

## **VERIFICATION OF NON-FINANCIAL FACTORS**

[24 CFR 5.617(b)(2)]

### **VERIFICATION OF LEGAL IDENTITY**

In order to prevent program abuse, the HACSD will require applicants to furnish verification of legal identity for all family members. All adult family members must provide a picture identification. Acceptable picture identification might be a driver's license, California identification card, or school picture identification. Family members who turn 18 years of age must provide picture identification as of the next annual reexamination.

Copies of the birth certificates for all family members must be on file, and only when that cannot be provided, will the following documents be temporarily accepted as proof of identify, birth, and residency:

Naturalization papers

Church issued baptismal certificate

Hospital birth certificate

Department of Motor Vehicles identification card

Current, valid driver's license

U.S. military discharge (DD 214)

U.S. passport

Voter's registration

Company/agency identification card

Hospital records

If a minor cannot provide a birth certificate, one of the following may be substituted temporarily:

Adoption papers

Hospital birth certificate

Custody agreement

Health and Human Services Identification

School records

If none of these documents can be provided, a third party who knows the person may, at the HACSD's discretion, provide verification.

The family must take steps to order a birth certificate, provide proof that these steps were taken, and be given a deadline to provide a birth certificate. If the birth certificate cannot be obtained, the family must provide documentation as evidence as to why the birth certificate cannot be obtained, in which case the secondary documents will be accepted permanently.

If a document submitted by a family is illegible or otherwise questionable, more than one of the above documents may be required.

## **VERIFICATION OF MARITAL STATUS**

Verification of divorce status will be a certified copy of the divorce decree, signed by a court officer.

Verification of a court ordered separation, may be a copy of court-ordered maintenance, or other records.

Verification of marriage status include a marriage certificate, marriage license, or on-line data confirmation from public records.

## **FAMILIAL RELATIONSHIPS**

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required, if applicable:

Verification of relationship:

Official identification showing names

Birth certificates

Baptismal certificates

Verification of guardianship is:

Court-ordered assignment

Affidavit of parent

Verification from social services agency

School records

## **VERIFICATION OF PERMANENT ABSENCE OF FAMILY MEMBER**

If an adult member, formerly a member of the household, is reported permanently absent by the family, the HACSD will consider any of the following as verification:

Documentation of divorce action

Documentation of legal separation

Order of protection/restraining order obtained by one family member against another

Proof of another home address, such as utility bills, canceled checks for rent, drivers license, lease, rental agreement, automobile registration, mail at new address, or credit report reflecting new address, if available

Statements from other agencies, such as social services, or a written statement from the landlord or manager, that the adult family member is no longer living at that location

If a family member is incarcerated, a document from the court or correctional facility stating how long s/he will be incarcerated

The HACSD will accept a self-certification, signed under penalty of perjury, from the head of household, or the spouse or co-head, if the head is the absent member.

#### **VERIFICATION OF CHANGE IN FAMILY COMPOSITION**

The HACSD may verify changes in family composition, either reported or unreported, through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or Department of Motor Vehicles (DMV) records, and other sources.

#### **VERIFICATION OF DISABILITY**

Verification of disability must be obtained from documentation of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)), or verified by the appropriate diagnostician, such as, physician, psychiatrist, psychologist, nurse, therapist, rehab specialist, or licensed social worker, using the appropriate HUD definition of disability.

#### **VERIFICATION OF CITIZENSHIP/ELIGIBLE IMMIGRANT STATUS**

[24 CFR 5.508, 5.510, 5.512, 5.514]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations, and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his/her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending; except that assistance to applicants may be delayed while the HACSD hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

The HACSD will require citizens to provide documentation of citizenship, such as a birth certificate, passport, or naturalization papers.

Eligible Immigrants aged 62 or over are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form, and provide original immigration documents. Front and back copies are retained and the original immigration documents are returned to the family. The HACSD verifies the eligible immigration status through the INS SAVE system. If the initial search fails to verify status, the HACSD will request, within ten days, that the INS conduct a second manual search.

Ineligible family members, who do not claim to be citizens or eligible immigrants, must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-citizen students on student visas are ineligible members, even though in the country lawfully. They must provide their student visa, but their status will not be verified. They do sign a declaration, but they are listed on the statement of ineligible members.

Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms, or provide documents, as required, s/he must be listed as an ineligible member. If the entire family fails to provide and sign documents as required, the family may be denied or terminated for failure to provide required information.

### **Time of Verification**

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other eligibility factors.

The HACSD will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual, or at least one member of the family.

The HACSD will verify the U.S. citizenship/eligible immigration status of all participants, no later than the date of the family's first annual reexamination following the enactment of the Quality Housing and Work Responsibility Act of 1998.



For family members added after other members have been verified, the verification must take place prior to the new member's addition to the household.

Once verification of eligible immigration status has been completed for any program participants, it need not be repeated, except for port-in families, if the initial PHA does not supply the documents.

### **Extensions of Time to Provide Documents**

The HACSD will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

### **Acceptable Documents of Eligible Immigration**

The regulations stipulate only the following documents are acceptable, unless changes are published in the Federal Register.

Resident Alien Card

Alien Registration Receipt Card (I-551)

Arrival-Departure Record (I-94)

Temporary Resident Card (I-688)

Employment Authorization Card (I-688B)

Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not an acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

The HACSD will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.

If the HACSD determines that a family member has knowingly permitted an individual, who is not eligible for assistance, to reside permanently in the family's unit, the family's assistance will be terminated for 24 months, unless the family's assistance was already being prorated due to the ineligible family member.

## **VERIFICATION OF SOCIAL SECURITY NUMBERS**

[24 CFR 5.216]

Social security numbers must be provided as a condition of eligibility for all family members, age six and over, who have been issued a number. Verification of social security numbers will be done through a social security card issued by the Social Security Administration. If a family member cannot produce a social security card, the documents listed below may be accepted for verification. The family may be required to certify in writing that the document(s) submitted in lieu of the social security card is/are complete and accurate:

A driver's license

Identification card issued by a federal, state or local agency

Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)

An identification card issued by an employer or trade union

Earnings statements or payroll stubs

Bank Statements

IRS Form 1099

Benefit award letters from government agencies

Retirement benefit letter

Life insurance policies

Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records

Verification of benefits or social security number from Social Security Administration

New family members, age six and older, will be required to produce their social security cards or other acceptable documentation, as outlined above. This information is to be provided at the time the HACSD adds the new family members to the household.

If an applicant or participant is able to disclose the social security number, but cannot meet the documentation requirements, the applicant or participant must sign

a certification of being unable to provide required documentation. The applicant/participant or family member will have an additional 60 days to provide proof of his/her social security number. If s/he fails to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the HACSD may grant an extension for an additional 60 days, up to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states s/he has not been issued a number, the family member will be required to sign a certification to this effect.

### **MEDICAL NEED FOR LARGER UNIT**

The family may request a larger voucher than indicated by the HACSD subsidy standards as a reasonable accommodation for a family member with disabilities. Refer to the glossary for the definition of person with disabilities.

The family request for a larger voucher must be in writing and must clearly explain a strong and compelling need or justification for a larger voucher and what about the additional bedroom will allow the person with disabilities better access to the program. The additional bedroom must be needed to accommodate the person with disabilities – not the family member without disabilities. The HACSD will require at least annually medical documentation, on HACSD forms, verifying the need or justification for a larger unit.

A state of California licensed doctor, or other licensed medical professional, such as a nurse, psychiatrist, psychologist, or a social service professional must provide a certification of the need for additional bedrooms or a live-in aide as a reasonable accommodation for a family member with disabilities, or for a live-in aide to provide supportive services for a person with disabilities.

For an additional bedroom, the health professional must explain a clear and compelling reason why the extra bedroom is needed to provide a reasonable accommodation for the serious medical condition of the family member.

For a live-in aide, the health professional must clearly indicate why the live-in aide is necessary to provide vital care to the household member with disabilities that cannot be performed any other way (e.g., by day caregiver, etc), or why the live-in aide is necessary as a reasonable accommodation to make the program usable and accessible to the family member with disabilities. The HACSD will require only that information necessary to determine the clear and compelling need for an additional bedroom and not to determine the nature of the disability.

## **VERIFICATION OF INCOME**

[24 CFR 982.516]

This section defines the methods the HACSD will use to verify various types of income.

### **EMPLOYMENT INCOME**

Verification forms may request the employer specify the:

Dates of employment.

Amount and frequency of earnings.

Date of last pay increase.

Earning history.

Year to date earnings.

Expected change in employment status.

Effective date of any anticipated wage increase during next twelve months

Estimated income from overtime, tips, and bonus pay expected during next twelve months.

Anticipated unpaid time off.

Acceptable methods of verification include:

Employment verification form completed by the employer.

Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.

W-2 forms or 1099 forms, plus income tax return forms.

Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service (IRS) for verification of income.

In cases with questions about the validity of information provided by the family, the HACSD may require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to the IRS will be made on a case-by-case basis.

**SOCIAL SECURITY, PENSIONS, SUPPLEMENTARY SECURITY INCOME (SSI), DISABILITY INCOME**

Acceptable methods of verification include:

- Benefit verification form completed by agency providing the benefits

- Award or benefit notification letters prepared and signed by the providing agency

- Computer report electronically obtained or in hard copy

- Pay stubs

- Bank statements that reflect direct deposits

**UNEMPLOYMENT COMPENSATION**

Acceptable methods of verification include:

- Unemployment compensation agency verification form.

- Unemployment office computer report e-mailed, faxed, or in hard copy.

- Payment stubs.

- Agency award letter.

**WELFARE PAYMENTS OR GENERAL ASSISTANCE**

Acceptable methods of verification include:

HACSD verification form completed by payment provider:

- Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next twelve months.

- Computer-generated, faxed, or hard copy notice of action

- Computer-generated list of recipients from welfare department.

Direct on-line access to welfare department database.

### **INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

[24 CFR 5.615]

The HACSD, for program participants, will impute (count) welfare income or not increase the rental assistance when determining the family share of rent for families whose welfare assistance is reduced specifically because of:

Fraud by a family member in connection with a welfare program; or

Noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program; or

Noncompliance with a work activities requirement

However, the HACSD will not impute (count) the income and will increase the rental assistance benefit if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits; or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment; or

A family member has not complied with other welfare agency requirements.

### **Definition of Covered Family**

A household that receives benefits for welfare or public assistance from a state or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

### **Definition of "Imputed Welfare Income"**

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the HACSD, based on written or verbal information supplied to the HACSD by the welfare agency, including:

The amount of the benefit reduction

The term of the benefit reduction

The reason for the reduction

Subsequent changes in the term or amount of the benefit reduction

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the housing specialist will review the calculation for accuracy. If the imputed welfare income amount is correct, the HACSD will provide a written notice to the family that includes:

A brief explanation of how the amount of imputed welfare income was determined

A statement that the family may request an informal hearing if it does not agree with the HACSD determination.

### **Verification Before Denying a Request to Reduce Rent**

The HACSD will obtain written or verbal verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

The HACSD will rely on the welfare agency's written or verbal notice regarding welfare sanctions.

### **Cooperation Agreements**

[24 CFR 5.613]

The HACSD has executed a cooperation agreement with the local welfare agency to ensure timely and accurate verification of noncompliance. The HACSD has on-line computer access to the welfare agency's client information.

The HACSD and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 tenant-based assistance families.

### **ALIMONY OR CHILD SUPPORT PAYMENTS**

Acceptable methods of verification include:

- Copy of a separation, or settlement agreement, or a divorce decree, stating amounts and types of support and payment schedules.

- A signed and dated letter from the person paying the support.

- Copy of latest check and/or payment stubs from court trustee. HACSD must record the date, amount, and number of the check.

- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide:

- A copy of the separation, or settlement agreement, or divorce decree, stating the amount, type, and payment schedule of the settlement

- A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement

- An affidavit from the family, signed under penalty of perjury, indicating the amount(s) received

- A welfare notice of action showing amounts received by the welfare agency for child support

- A written statement from an attorney certifying that a collection or enforcement action has been filed



### **NET INCOME FROM A BUSINESS**

In order to verify the net income from a business, the HACSD will view the IRS federal income tax return, and financial documents from prior years, and use this information to anticipate the income for the next twelve months.

Acceptable methods of verification include:

IRS Form 1040, including:

Schedule C (Small Business).

Schedule E (Rental Property Income).

Schedule F (Farm Income).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense is computed using a straight-line depreciation method.

Financial statement(s), either audited or not audited, of the business.

Credit report or loan application.

Family's self-certification as to net income realized from the business during previous years.

### **CHILD CARE BUSINESS**

If an applicant/participant is operating a licensed day care business, income will be verified the same as for any other type of business.

If the applicant/participant is operating a "cash and carry" operation, which may or may not be licensed, the HACSD will require that the applicant/participant complete a form for each customer. The form must indicate the name of person(s) whose child (children) is/are being cared for, phone number, number of hours the child is being cared for, method of payment (check/cash), amount paid, and signature of person who receives the services.

The family must provide a copy of its federal income tax return, if it was filed.

If none of the above documents is available, the family may provide a self-certification, signed under penalty of perjury, as to gross income received the previous year, as well as anticipated gross income for the next year.

### **RECURRING GIFTS/CONTRIBUTIONS**

The family must furnish a self-certification with the following information:

The person who provides the gifts

The value of the gifts

The regularity (dates) of the gifts

The purpose of the gifts

Contributions called "loans" from any party other than an institution will be considered income.

Repayments back of a loan paid out by the assisted household must be documented as follows in order to not count the payments as regular contributions to the family:

Bank statement withdrawals indicating the assisted household made the loan.

Cancelled checks indicating the amount of the loan and to whom the loan was paid.

Notarized loan repayment agreement executed around the time the loan was made, with the terms and amount of the loan.

### **ZERO OR MINIMAL INCOME**

Families claiming to have no or little income, may be required to provide documentation to prove that income, such as unemployment benefits, TANF, SSI, etc., are not being received.

The HACSD may request information from the state employment development department.

The HACSD may run a credit report on the family.

The HACSD may require a family's self-certification, signed under penalty of perjury, stating that it has no income, and explaining how it expects to meet its needs.

The HACSD may require the family to provide documentation of its expenses such as, grocery receipts, utility bills, gasoline receipts, or other documentation of expenses.

### **EMPLOYER MILEAGE REIMBURSEMENT**

Employment reimbursement for mileage expenses for use of personal vehicle will not be counted as income as long as the amount is:

Reasonable in comparison with the IRS or other standard reimbursement schedule.

Can be documented with mileage logs.

Mileage reimbursement that exceeds the standard rate will be counted as income.

**EMPLOYER CONTRIBUTION TO MEDICAL/CHILD CARE FLEXIBLE BENEFIT ACCOUNT**

Employer contribution to a medical or childcare account will not be counted as income as long as the funds are only distributed as payment or reimbursement for medical or childcare expenses/payments. Documentation regarding the requirements of the account may be required. Participants are not eligible for medical or childcare deductions if reimbursement for these expenses is provided by this employer contribution account.

**FULL-TIME STUDENT STATUS**

With the exception of the head, co-head, or spouse, the first \$480 of earned income of each household member, 18 years of age or older, who is a full time student, will be counted towards family income. All earned income of a full-time student who is the head, spouse, co-head will be counted as family income unless it is exempt income for some other reason.

School financial assistance, scholarships, work-study, and grants received by students, including the head, spouse, or co-head, are not counted as family income.

School expenses or, including mileage are not allowable deductions.

Verification of full time student status includes:

Written verification from the registrar's office or other school official.

School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

Copy of student's registration information, indicating the semester, and the number of credits taken.

## **VERIFICATION OF ASSETS**

[24 CFR 982.516]

### **VERIFICATION OF THE VALUE OF THE ASSETS**

#### **Family Assets**

The HACSD will require the information necessary to determine the current cash value of the family's assets, (the net amount the family would receive if the assets were converted to cash).

Acceptable verification may include any of the following:

Verification forms, letters, or documents from a financial institution or broker.

Passbooks, bank account statements, certificates of deposit, copies of bonds, or financial statements completed by a financial institution or broker.

Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate

Real estate taxes statements, if the approximate current market value can be deduced from assessment

Financial statements for business assets

Copies of closing documents showing the selling price, and the distribution of the sales proceeds

Appraisals of personal property held as an investment

Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes

### **SAVINGS ACCOUNT INTEREST INCOME AND DIVIDENDS**

Acceptable methods of verification include:

Written third party verification from the institution handling the asset.

Account bank statements, passbooks, certificates of deposit, or HACSD verification forms completed by the financial institution.

Broker's statements showing value of stocks or bonds and the earnings credited the family, or copies of bonds. Earnings can be obtained from current newspaper quotations, bank, or oral broker's verification.

IRS Form 1099 from the financial institution provided that the HACSD must adjust the information to project earnings expected for the next twelve months.

### **INTEREST INCOME FROM MORTGAGES OR SIMILAR ARRANGEMENTS**

Acceptable methods of verification include:

A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next twelve months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown).

Amortization schedule showing interest for the twelve months following the effective date of the certification or recertification.

Copies of the deed of trust and note that indicate the beginning principal, interest rate, term of loan, payment schedule, and principal and interest payment.

Copy of ledger reflecting the posting of payments and application of interest and principal.

Copy of year's end statement to borrower.

Copies of the escrow papers and contract.

### **NET RENTAL INCOME FROM PROPERTY OWNED BY FAMILY**

Acceptable methods of verification include:

IRS Form 1040 with Schedule E (Rental Income).

Copies of latest rent receipts, leases, or other documentation of rent amounts.

Documentation of allowable operating expenses of the property including: tax statements, insurance invoices, and bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

Copies of ledgers indicating rent payments.

### **ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE (FMV) DURING TWO YEARS PRECEDING EFFECTIVE DATE OF CERTIFICATION OR RECERTIFICATION**

At certification and recertification, the HACSD will obtain the family's self-certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies it has disposed of assets for less than fair market value, documentation is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the FMV of the assets at the time of disposition. Third party verifications will be obtained wherever possible.

### **VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

[24 CFR 982.516]

### **PREGNANT APPLICANT/PARTICIPANT**

No allowances for an unborn child.

### **CHILDCARE EXPENSES**

Written verification from the recipient of the childcare payments is required. If the childcare provider is an individual, s/he must provide a statement of the amount charged the family for the services.

Verifications must specify the childcare provider's name, address, telephone number, social security number or tax identification number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including adjusted figures for school and vacation periods.

The family must certify if any childcare expenses have been, or will be, paid or reimbursed by outside sources.

### **MEDICAL EXPENSES**

Families, who claim medical expenses, must submit a certification indicating if medical expenses have been, or will be, reimbursed by an outside source. All medical expense claims will be verified by one or more of the methods listed below:

Written verification by a doctor, hospital, clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) the expenses to be reimbursed by an insurance or a government agency

Written confirmation by the insurance company, or employer, of health insurance premiums to be paid by the family

Written confirmation from the Social Security Administration on Medicare premiums to be paid by the family over the next twelve months. A computer printout, or copy of award letter indicating Medicare deductions, will be accepted

For attendant care:

A reliable, knowledgeable, professional's certification that the assistance of an attendant is necessary as a medical expense with a projection of the number of hours the care is needed

An attendant's written confirmation of the hours of care provided, and the amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or pay stubs or written verification from the agency providing the services.

Receipts, canceled checks, or pay stubs that clearly reflect medical costs and insurance expenses likely to be incurred in the next twelve months will be accepted.

Copies of payment agreements, or most recent invoices that verify payments made on outstanding medical bills that will continue over all or part of the next twelve months.

Receipts or other records of medical expenses incurred during the past twelve months that can be used to anticipate future medical expenses. The HACSD may use this approach for "general medical expenses," such as non-prescription drugs, and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

The HACSD will allow mileage at the current departmental standard rate, as long as copies of mileage logs are provided. The mileage logs must indicate the date of the trip, beginning and ending odometer readings, and the purpose of the trip. Also allowed, with documentation, are the expenses for bus fare, cab fare, or other public transportation expenses directly related to trips for medical treatment.

## **ASSISTANCE TO PERSONS WITH DISABILITIES**

[24 CFR 5.611(c)]

In all cases, required documentation includes:

A written certification from a reliable, knowledgeable professional, stating that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus, to permit him/her to be employed, or to enable another family member to be employed.

The family must certify whether it receives reimbursement for any of the expenses of disability assistance, and the amount of any reimbursement received.

Attendant care verifications include:

An attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided

Certification of family and attendant and/or copies of canceled checks the family used to make payments

Auxiliary apparatus expense verifications include:

Receipts for purchases, or proof of monthly payments, and maintenance expenses for auxiliary apparatus

In the case where the person with disabilities is employed, required documentation includes a statement from the employer stating that the auxiliary apparatus is necessary for employment. In the case where the auxiliary apparatus allows another adult to work, required documentation includes a statement from the family that the apparatus is necessary to allow an adult family member to work



# VOUCHER TERM, SUBSIDY STANDARDS, HOUSEHOLD COMPOSITION

[24 CFR Part 982.303, 982.402, 982.551, 982.54(d)(9)]

## INTRODUCTION

**H**UD guidelines require PHAs to establish a term for issued vouchers. In addition, a PHA must establish subsidy standards for the determination of family unit size that provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size must be within the minimum unit size requirements of HUD's Housing Quality Standards (HQS). This chapter explains the established term for voucher utilization, subsidy standards that HACSD will use to determine the voucher size (family unit size) for families when they are selected from the waiting list, the HACSD's procedures for a family size change, and for family selection of a unit of a different size than the voucher size.

## TERM OF VOUCHER

[24 CFR 982.303, 982.54(d)(11)]

During the briefing session and upon approval of participant's transfer of unit, a household will be issued a voucher. The voucher represents a contractual agreement between the HACSD and the family specifying the rights and responsibilities of each party. It does not by itself constitute admission to the program, which occurs after a family is selected off the Section 8 waiting list, found eligible, attends a briefing, the initial unit passes inspection, and the initial lease and contract become effective.

### **EXPIRATIONS**

The voucher is valid for a period of 120 calendar days from the date of issuance. The family must submit a RFTA within the 120-day period unless the HACSD has granted an extension.

If the voucher has expired, the family will be denied assistance. The family will not be entitled to a review or hearing. The family must reapply to be placed back on the waiting list.

### **SUSPENSIONS**

When a RFTA is received, the HACSD will add the number of days taken to process the RFTA to the term of the voucher.

### **EXTENSIONS**

A family may request, in writing, an extension to the term of the voucher. All requests for extensions must be received prior to the expiration date of the voucher. The program manager or designee must approve all voucher extensions beyond the initial 120 days. An initial extension will be for a period of no more than 120 days.

Extensions are permissible only if funding is available and at the discretion of the HACSD, in the following circumstances:

Extenuating circumstances such as hospitalization or a family emergency for an extended period of time, which has affected the family's ability to find a unit within the initial 120-day period, a large hard to house family, or the need for reasonable accommodation for a disabled family member. Verification is required.

The HACSD is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the HACSD, throughout the initial 120-day period. A written family search record may be required.

The HACSD Program Manager has the discretion to authorize voucher extensions at any time.

### **ASSISTANCE TO VOUCHER HOLDERS**

Families who require additional assistance during their search may call the HACSD to request assistance.

The HACSD will assist families on lease negotiations with owners, and provide other assistance related to the families' search for housing.

After the first 60 days of the search, the family should maintain a search record. The search record may be required for any voucher extension requests. The search record must include a list of the units visited. This list must include the dates the units were examined, the landlords' names and telephone numbers, the unit addresses, the rents, and why the voucher holder was not able to rent the unit.

### **VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

[24 CFR 982.315]

When an assisted family or a family who has been issued a voucher divides into two otherwise eligible families, and cannot agree as to which new family unit should retain the assistance and/or the voucher, and there is no determination by a court, the HACSD, to determine which family will receive the voucher, will consider the following factors, in ranking order of importance, with one (1) of the greatest importance, and six (6) of the least importance:

1. Whether domestic violence was involved in the breakup
2. Which of the two new family units has custody of dependent children.
3. The composition of the new family units, and which unit contains elderly or disabled members
4. Recommendations of social service professionals
5. Which family member was the head of household when the voucher was initially issued, as indicated on the initial application.
6. Which family members are remaining in the assisted unit.

Documentation of these factors will be the responsibility of the requesting parties.

### **DETERMINING FAMILY UNIT (VOUCHER) SIZE**

[24 CFR 982.402]

The HACSD does not concern itself with who shares a bedroom/sleeping room, but requires at least one person per bedroom when determining the voucher unit size. The HACSD will not approve an additional bedroom for non-living purposes, such as the placement of equipment. The HACSD's subsidy standards for determining voucher size shall be applied in a manner consistent with fair housing guidelines.

All standards in this section relate to the number of bedrooms on the voucher, not the family's actual living arrangements.

A sleeping room will only be considered a bedroom for subsidy standards purposes if it was designed to be used as a bedroom or to be converted to a bedroom, including the requirements that it is private with a door that closes and it has a window that opens to the outside for light and ventilation. The room will not be considered a bedroom for subsidy standards purposes if it is used to as a corridor to access another room, if it has something installed that indicates it has another use, such as a water heater, washer/dryer hookups, gas line for a stove, etc., or if it is not accessible from inside the main dwelling unit, such as an outbuilding.

The voucher unit size remains the same, as long as the family composition remains the same, regardless of the actual unit rented.

One bedroom is assigned for the head of household and/or spouse or co-head, and one bedroom is awarded to each two family members, regardless of sex, age or relationship. Exceptions may occasionally be made for serious medical reasons if the need for a reasonable accommodation is clear, compelling and well documented, or for a live-in aide, if it is verified there is a need that cannot be met another way.

The HACSD will reexamine the subsidy standards annually, upon transfer, and upon changes in household composition.

Generally, the HACSD assigns one bedroom to two people, within the following guidelines:

Foster children will be included in determining unit size upon program admission. For participants, foster children may be added to the household only if they will be in the unit for one year, and only if the unit will not be overcrowded.

Live-in attendants will generally be provided a separate bedroom. No additional voucher bedrooms are provided for the attendant's family. Also, each family member may have no more than one live in aide. Live-in attendants cannot have an ownership or other interest in the rental property.

Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member absent due to military service.

A single pregnant woman, with no other family members, is treated as a two-person family for subsidy standards purposes.

### **HACSD SUBSIDY STANDARDS**

| <b>Voucher Size</b> | <b>Household Size for Voucher<br/>Size Issued</b> |
|---------------------|---|
| 0 Bedrooms          | 1   |
| 1 Bedrooms          | 2   |
| 2 Bedrooms          | 4   |
| 3 Bedrooms          | 6   |
| 4 Bedrooms          | 8   |
| 5 Bedrooms          | 10  |
| 6 Bedrooms          | 12  |

### **EXCEPTIONS TO SUBSIDY STANDARDS**

[24 CFR 982.402]

The HACSD may grant exceptions to the subsidy standards, upon request, providing the HACSD determines the exceptions are clearly justified in a compelling manner as a reasonable accommodation for family members with disabilities.

The disability must meet the HUD definition of disability that requires a reasonable accommodation. Refer to the glossary for the HUD definition of a person with disabilities.

In addition, a larger subsidy standard the equal of no more than one bedroom will be allowed for a live-in aide that performs vital assistance that cannot be provided in any other way to an elderly household member or a household member with disabilities. The live-in aide's family members may reside in the unit as long as the unit is not over-crowded according to HQS.

### **REQUEST FOR EXCEPTIONS TO SUBSIDY STANDARDS**

The family must request, in writing, a larger size voucher than indicated by the HACSD subsidy standards as a reasonable accommodation for a family member with disabilities. The family request for a larger voucher must be in writing and must clearly explain the compelling need or justification for a larger voucher and describe fully what about the additional bedroom will allow the person with disabilities better access to the program. The additional bedroom must be needed to accommodate the person with disabilities – not the family member without disabilities. Documentation from a health professional verifying the need or justification will be required by the HACSD at least annually.

A state of California licensed doctor, or other licensed medical professional, such as a nurse, psychiatrist, psychologist, or a social service professional must provide a certification of the need for additional bedrooms as a reasonable accommodation for a family member with disabilities, or a live-in aide. In addition, the health professional must explain why the extra bedroom is needed to provide a reasonable accommodation for that family member and/or why the live-in aide is necessary to provide vital care to the elderly or a household member with disabilities that cannot be performed any other way (e.g., by day caregiver, etc). The HACSD will require only that information necessary to determine the need for an additional bedroom and not to determine the nature of the disability.

## **CHANGES IN VOUCHER SIZE**

### **CHANGES FOR APPLICANTS**

The voucher size is determined prior to the briefing by comparing the family composition to the HACSD subsidy standards. Once the voucher size is determined, the family will not receive a larger voucher unless the request is due to a live-in aide, a need for reasonable accommodation, or a household addition due to birth, adoption, return of disabled or minor children to the family, foster children, or court-awarded custody.

### **CHANGES FOR PARTICIPANTS**

The HACSD must approve the members of the family residing in the unit. The family must obtain HACSD approval of any additional family member prior to that person moving into the assisted unit, unless the addition is by birth, adoption, return of disabled or minor children to the family, or court-awarded custody, in which case the family must inform the HACSD within 14 days, and the previously referenced guidelines will apply. The voucher size will not be increased for household additions unless the additions are due to birth, adoption, return of disabled or minor children to the family, foster children, a live-in aide or court-awarded custody.

### **UNDERHOUSED AND OVERHOUSED FAMILIES**

If a unit does not meet HQS space standards or if the owner disapproves an increase in family size due to a birth, adoption, return of disabled or minor children to the family, or court-awarded custody, the HACSD will issue a new voucher of the appropriate size, and assist the family in locating a suitable unit. Other additions are not eligible for a larger voucher, and these additional members may not be added to the household if the addition violates HQS due to overcrowding or if the owner disapproves their addition. Participants who require a reduction in subsidy standards due the removal of a household member will receive a minimum of a 60-day notice of a change in their subsidy standards. The change is generally effective

the next annual recertification, unless it is less than 60 days, in which case the change will be effective in 60 days with an interim conducted.

## **DETERMINATION OF HOUSEHOLD STATUS AND COMPOSITION**

### **FAMILY COMPOSITION**

[24 CFR 982.201]

A qualifying family may be a single person or a group of persons.

A family may or may not include a child or children. A family may consist of one or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides. The HACSD determines if any other group of persons qualifies as a family.

A single person family may be:

- An elderly person.

- A person with a disability (Individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence).

- Any other single person.

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the child's **temporary** absence from the home.

A family also includes:

- Two or more persons residing together using their combined income and resources to meet their needs.

- Two or more elderly or disabled persons residing together sharing income and resources.

- One or more elderly, near elderly or disabled persons residing together, with one or more live-in aides.

## **Head of Household**

The head of household is the adult member of the household designated by the family as the person wholly or partly responsible for paying the rent, with the legal capacity to enter into a lease under state/local law. Emancipated minors who qualify under state law may be recognized as head of household.

## **Spouse of Head of Household**

Spouse means the husband or wife of the head of household.

For proper application of the non-citizen rule, the definition of spouse is: the marriage partner for whom, in order to dissolve the relationship, must be legally divorced. In addition, the partner in a common law marriage is also considered a "spouse." The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

## **Co-Head**

A co-head is an individual in the household who is equally responsible for the lease with the head of household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

## **Foster Children**

A family may include foster children provided that the HACSD and the owner approve their admission to the household. Documentation must be submitted to verify the identity of the foster children, to confirm they are foster children, and the benefits paid on behalf of the foster children. A streamlined documentation process is acceptable for foster children expected to be in the household for a short period of time. Foster children expected to be in the household at least one year are considered a part of the family in determining the subsidy standard.

Foster children are treated differently than family members:

- The income paid on behalf of foster children is not counted in determining the rental subsidy.

- No dependent allowances for foster children

- Foster children are not subject to non-citizen rule requirements.

- Foster children may not be considered remaining members of the tenant family.



## **Live-in Aides**

A family may include a live-in aide provided that such live-in aide:

Is determined by the HACSD to be essential to the care and well being of a near elderly (at least 50 years of age) or elderly person or a person with disabilities and will provide services that cannot be provided any other way.

Is not obligated for the support of the person(s).

Would not be living in the unit except to provide care for the person(s).

Was not a member of the assisted household as a family member for at least one year prior to being admitted as a live-in aide.

Is the only live-in aide providing services to that family member.

A live-in aide is treated differently than family members:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to non-citizen rule requirements.

Live-in aides **may not** be considered a remaining member of the tenant family.

Live-in aides, while residing in the assisted unit, may never change status to an assisted family member.

A live-in aide must be out of the assisted household for at least one year before s/he is eligible to be admitted to the assisted unit as a family member.

A household member must be out of the assisted household for at least one year before s/he is eligible to be admitted to the assisted unit as a live-in aide.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements of the live-in aide definition described above.

A live-in aide may only reside in the unit with the approval of the HACSD. Written verification will be required from a state of California licensed professional, such as a doctor, social worker, or caseworker. The verification must certify that a live-in aide is needed for the care of the family member who is near elderly, elderly, or disabled and the services provided by the live-in aide cannot be provided any other way.

A participating family's voucher size will not be increased to accommodate a live-in aide until a live-in aide has been identified and approved. A participating family whose live-in aide has left the household has 30 days from the date the live-in aide left to obtain another eligible live-in aide. After 30 days, a notice of action will be issued reducing the voucher size in no less than sixty days and no later than the first of the third month following the month of the notice. If an eligible live-in aide is approved prior to the effective date of the notice of action, the notice of action will be rescinded. An applicant or transferring family must identify an eligible live-in aide prior to execution of the HAP contract.

Per Title 24 CFR 982.316, the HACSD may refuse to approve a particular person as a live-in aide, or may withdraw such approval if:

- The person commits or has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

- The person commits or has committed drug-related criminal activity or violent criminal activity; or

- The person is subject to the sex offender registration requirement of a state sex offender registration program, or

- The person is obviously not capable or not available to fully meet the needs of the person requiring a live-in-aide, or

- The person is not approved by the landlord, or

- The person has a history of disturbance or other occupancy problems, or

- The person is unwilling to provide proof of identification or unwilling to sign the necessary releases of information, or

- The person currently owes rent or other amounts to the HACSD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

The HACSD will deny the admission of a live-in aide as outlined in 24 CFR Part 982.553 in accordance with the prohibition period outlined in Chapter 3. In particular, the HACSD will deny admission of a live-in aide for criteria outlined under 24 CFR Part 982.553 (a) (ii) (3) for permissive prohibitions to prohibit program admission for "other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity."

### **Remaining Member of the Family**

[24 CFR 982.315]

A remaining member of the tenant family is the person remaining in the household when the head of household, spouse, and co-head are absent. Authorized family members are eligible for remaining member status and the family's voucher.

A live-in attendant or foster children are not eligible for remaining member status.

In order for a minor child to continue to receive assistance as a remaining family member:

The court has awarded emancipated minor status to the minor, or

The HACSD has verified that social services and/or the juvenile court has arranged for another adult to be brought into the assisted unit to care for the child for an indefinite period.

A reduction in family size may require a reduction in the voucher size.

### **Visitors**

Any visitor, except minors and college students who were once part of the household, and adult caretakers, not included on the HUD 50058, who has been in the unit more than fourteen consecutive days without HACSD approval, or a total of 30 days in a twelve-month period, will be considered to be living in the unit as an unauthorized household member. Minors and college students who were part of the family, but who now live away from home during the school year and are no longer on the lease, may visit, with the owner's and the HACSD's permission, for up to 120 days per year without being considered a member of the household. An adult caretaker may remain in the unit as a visitor for up to 180 days.

Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

Absence of evidence of any other permanent address will be considered verification that the visitor is a member of the household.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household, and the HACSD will terminate assistance.

### **"Mixed Families"**

[24 CFR 5.518]

Under the non-citizens rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The non-citizens rule was implemented prior to November 29, 1996, and "mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

The head of household or spouse is a U.S. citizen or has eligible immigrant status; and

All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse, are citizens or eligible immigrants. The family may change the head of household to qualify for this provision.

### **TEMPORARILY/PERMANENTLY ABSENT FAMILY MEMBERS**

[CFR 982.54(d)(10), 982.551]

The HACSD must count all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the HACSD must count the income of the spouse, or the head of the household, if that person is temporarily absent, even if that person is not on the lease.

"Temporarily absent" is defined as away from the unit for 180 consecutive days, or less than six months.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other HUD-defined exceptions to military pay) are counted as income.

It is the responsibility of the head of household to report changes in family composition. The HACSD will evaluate absences from the unit using this policy.

### **Absence of Any Member**

A member of the household is considered permanently absent if s/he is away from the unit for six consecutive months or more in a twelve-month period, except as otherwise provided in this chapter.

If a member of the household is subject to a court order that restricts him/her from the home for more than six months, the person will be considered permanently absent.

**Absence Due to Medical Reasons/Confined to Nursing Home**

CFR 982.54(d)(10)]

If a family member leaves the household to enter a facility such as a hospital, nursing home, or rehabilitation center, the HACSD will require verification from a reliable, qualified source as to the likelihood of his/her return, and the anticipated length of his/her absence.

**Sole Family Member**

If the verification indicates the sole family member is permanently confined to a nursing home, s/he will be considered permanently absent and assistance will be terminated. If the verification indicates the sole family member may return in less than 180 consecutive days, or is unsure when the sole family member will return, the family member may be considered temporarily absent.

**Remaining Household Member**

If a family member is confined to a hospital or nursing home for an indefinite duration, and there is a family member left in the household, the HACSD will calculate the lower family rent by comparing the following methods:

Exclude the income of the person permanently confined to the nursing home, give the family no deductions for the medical expenses of the confined family member, and review and reduce the family's subsidy standards, if appropriate.

OR

Include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

### **Absence Due to Full-time Student Status**

Full time students who attend school away from the home will be treated in the following manner:

A student (other than head of household or spouse) who attends school away from home, but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of voucher size.

### **Absence due to Incarceration**

If a household member, including the sole member, is incarcerated for more than 180 consecutive days, s/he will be considered permanently absent.

The HACSD will request documentation necessary to determine if the reason for incarceration is for prohibited activities, and take the appropriate action.

### **Absence of Children due to Placement in Foster Care**

The HACSD will verify with the appropriate agency when a child or children, temporarily absent from the home due to placement in foster care, will return. In addition, the HACSD will determine why the children were placed in foster care for purposes of determining if a family member had engaged in violent or drug-related criminal activities that may be cause for denial or termination of assistance.

If the time period in foster care is to be greater than six months from the date of removal of the children, or the children have been removed permanently, the voucher size will be reviewed and reduced, if appropriate.

### **Absence of Entire Family**

In cases where the family has moved out of the unit, the HACSD will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required to notify the HACSD before they move, or are absent more than 30 consecutive days from a unit.

If the entire family is absent from the assisted unit for more than 180 consecutive days, the unit will be considered vacated, and the assistance will be terminated.

HUD regulations require the HACSD terminate assistance when the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the HACSD may:

- Write letters to the family at the unit

- Telephone the family at the unit

- Interview neighbors

- Verify if utilities are in service

- Check with the post office

### **Absence of Parents and Caretaker for Children**

When an appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, in instances when the parents have vacated, the HACSD will treat that adult as a visitor for the first 180 days.

After 180 days, if the court awards custody or legal guardianship to the caretaker, the voucher will be transferred to the caretaker.

The HACSD will, until receipt of confirmation from an appropriate agency, review the guardianship status of the caretaker at six months intervals.

If court action to award custody or legal guardianship is in process, the HACSD will secure verification of the status of the case from a social service agency, or an attorney.

The HACSD will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than twelve months, and it is reasonable to expect custody to be granted.

If custody is awarded for a limited time, the HACSD will state in writing that the transfer of the voucher is for a limited time, and as long as the caretaker has the custody of the children.

When the HACSD approves a person to reside in the unit as caretaker for the children, the income will be counted pending a final disposition. The HACSD will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

### **Joint Custody of Children**

Children, who are subject to a joint custody agreement but live with the applicant/participant at least 51 percent of the time, will be considered members of the household. The definition of "51 percent of the time" is 183 non-consecutive days of the year.

When both parents are on the waiting list or on the program, and both are trying to claim the child as a member of the household, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

In a joint custody arrangement, if the minor is in the household less than six months per year, the minor will be considered to be an eligible visitor and not a family member.



## CALCULATION OF TTP AND FAMILY RENT

[24 CFR Part 5, Subparts E and F; 982.153, 982.551, 982.54]

### INTRODUCTION

**H**UD requires accurate calculation of the family's total tenant payment and rent amount. This chapter reviews key guidelines for the correct determination of the family's portion of the rent, including the determination of allowances and expenses off of income, countable, imputed and exempt income, assets and their actual and imputed income.

### INCOME

The HACSD will anticipate income as accurately as possible by reviewing all verifications and using the most accurate reflection of income for the next 12 months.

Income: Includes all monetary amounts received on behalf of the family. HUD defines what is calculated and excluded in determining the total tenant payment (TTP). In accordance with this definition, all income meeting the customary definition of income, not specifically excluded in the regulations, is counted.

Annual Income is defined as the gross amount of income anticipated to be received by the family during the twelve months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits. Wages for full-time employment are anticipated for a full 52 weeks unless documentation is provided that wages will not be earned for the full year.

Annual income may be anticipated using the previous year's income, rather than current income, if that is the most accurate reflection of the next year's income.

### **AMOUNTS THE HACSD HAS DETERMINED DO NOT MEET THE DEFINITION OF INCOME**

Employer reimbursement for mileage expenses is not considered income as long as the reimbursement is reasonable as compared to a large employer or the Internal Revenue Service mileage allowance. Mileage logs may be requested.

Loans to a participant/applicant from an institution are not considered income. However, "loans" from private parties **are** considered income.

Repayment of a loan back to the applicant/participant is not considered income if documentation can be presented that the loan was made by the applicant/participant. If no documentation is provided, the "repayments" are considered income.

Employer contributions to a flexible medical or childcare expense account are not considered income as long as the money is only accessible by the family as reimbursement for out-of-pocket medical or childcare expenses. However, childcare or medical expenses will not be allowed as deduction if they are reimbursable through a flexible employer contribution account.

### **AVERAGING INCOME**

When annual income cannot be anticipated for a full twelve months, the HACSD may use one of the following methods to calculate annual income:

Average known sources of income that vary to eliminate interim adjustments

Annualize current income and conduct an interim adjustment when it goes down

Use prior year's income information to anticipate the following year

Average employer's year-to-date income information

If there are bonuses or overtime, which the employer cannot anticipate for the next twelve months, the previous year's information will be used.

The method used depends on the regularity, source and type of income.

### **MINIMAL OR ZERO INCOME**

There is no minimum income requirement. Families who report zero or minimal income are required to complete a written certification every 90 days. The HACSD may conduct an interim to increase the family's rent share upon reinstatement of

income. Families may also be required to provide documentation of their monthly expenses for food, utilities, gas, and other regular expenses.

### **REGULAR CONTRIBUTIONS AND GIFTS**

[24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income.

This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts.

Any contribution or gift received every twelve months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$200.00 per year. This includes rent and utility payments made on behalf of the family, and other cash or non-cash contributions provided on a regular basis. HACSD does not consider casual contributions or sporadic gifts income.

If the family's expenses exceed its known income, the HACSD will inquire of the family regarding contributions and gifts.

### **SOCIAL SECURITY INCOME**

If the social security statement indicates a reduced social security benefit due to rounding, count the rounded amount.

If the social security statement indicates a deduction for medicare, add the medicare payment amount to the net benefit for the countable income.

### **ALIMONY AND CHILD SUPPORT**

[24 CFR 5.609]

Regular alimony and child support payments are counted as income.

If the amount of child support or alimony received is less than the amount awarded by the court, the HACSD will use the amount awarded by the court, unless the family can verify it is not receiving the full amount.

The HACSD will accept verification that the family is receiving an amount less than the award if:

The family furnishes documentation of a child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

The HACSD may accept a family certification in writing, under penalty of perjury, that states it is not receiving the full amount of alimony or child support, and explains why it cannot provide the documentation outlined in the previous paragraph.

It is the family's responsibility to supply a certified copy of the divorce decree.

**INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**  
[5.615]

The HACSD will impute welfare income for the family, if the welfare assistance was reduced specifically because of:

Fraud by a family member in connection with the program

Failure to participate in an economic self-sufficiency program

Noncompliance with a work activities requirement

Imputed welfare income is annual income the family would have received, had its benefits not been reduced due to the above circumstances. This imputed income would be counted in determining the TTP.

Imputed welfare income is not included in the family's annual income, if the family was not assisted at the time of the welfare sanction.

The amount of imputed welfare income is offset by the amount of additional family income received after a sanction was imposed.

If the additional family income equals the imputed welfare income, imputed welfare income is not counted.

The HACSD will not impute welfare income, if the welfare assistance reduction is the result of:

The expiration of a lifetime time limit on receiving benefits

The family has not complied with other welfare agency requirements not outlined above

The family member has complied with welfare agency economic self-sufficiency requirements, or work activities requirements, but cannot, or has not, obtained employment. For example, the family member has complied with welfare program requirements, but the family has exceeded the maximum time it is allowed to receive benefits, resulting in a loss of benefits.

### **Verification Before Denying a Request to Reduce Family Rent**

The HACSD will obtain a written, faxed, computer, or telephone verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency/work activities requirements, before denying a family's request for reduction of family rent. The requested written verification from the welfare agency must state the amount, term, and reason for the benefit reduction. The welfare agency must, upon request, also inform the HACSD of changes.

### **Cooperation Agreements**

The HACSD has a cooperation agreement in place with the local welfare agency. The HACSD has access to the welfare agency's database and can search welfare participant records.

### **Family Dispute of Amount of Imputed Welfare Income**

If the family disputes the amount of imputed income and the HACSD denies the family's request to modify the amount, the HACSD will provide the tenant with a notice of denial, which will include:

An explanation for the HACSD's determination of the amount of imputed welfare income

Opportunity to request an informal hearing

### **LUMP SUM RECEIPTS CONSIDERED INCOME UNDER THE REGULATIONS**

[24 CFR 5.609]

Lump-sum payments caused by delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income; however, the HACSD evaluates income increases at annual reexamination, and any lump sum income received prior to the annual reexamination would probably not be counted. The remaining balance would be counted as an asset.

Lump sum payments from Social Security or Supplemental Security Income (SSI) are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments, which have accumulated due to a dispute, will be treated the same as periodic payments, which are deferred due to delays in processing.

The policy of the HACSD is to not calculate retroactive tenant rent the family owes as a result of the lump sum receipt, as long as the family reported the income in a timely manner. If the family fails to report the income, the HACSD may calculate an overpayment, and/or hold a tenant integrity conference to advise the family of possible repercussions if it fails to abide by the HACSD program obligations.

### **Attorney Fees**

The family's attorney fees may be deducted from lump sum payments, when computing annual income, if the attorney's efforts have recovered the compensation, and the recovery paid to the family does not include an additional amount to cover attorney fees.

### **DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES**

[24 CFR 5.617; 982.201(b)(3)]

The annual income for qualified families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continuing for a cumulative twelve-month period. After the disabled family member receives twelve cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

A family qualified for the earned income exclusion is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and one of the three conditions apply:

Whose annual income increases are a result of employment of a family member who is a person with disabilities, and who was previously unemployed for one or more years prior to employment; **or**

Whose annual income increases are a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; **or**

Whose annual income increases are a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of "previously unemployed" includes a person with disabilities who has earned in the previous twelve months no more than the equivalent earnings for working ten hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the state or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job-training program, and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

The amount of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies and transportation assistance.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the family member with disabilities' income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income. However, the amount of the incremental income may never exceed the amount of income earned from the person's employment.

The disallowance is initially applied as of the date the participant's rent would normally increase as a result of increase in earned income. An interim may be necessary to properly apply the initial and phase-in exclusion periods and to remove the exclusion.

### **Initial Twelve-Month Exclusion**

During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed, or the family first experiences an increase in annual income attributable to employment, the HACSD will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

### **Second Twelve-Month Exclusion and Phase-in**

During the second cumulative twelve month period after the expiration of the initial cumulative twelve month period referred to above, the HACSD must exclude from annual income of a qualified family fifty percent (50%) of any increase in income of a family member who is a person with disabilities, as a result of employment, over income of that family member prior to the beginning of such employment.

### **Maximum Four-Year Disallowance**

The earned income disallowance is limited to a lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of twelve months of full exclusion of incremental increase, and a maximum of twelve months of phase-in exclusion during the 48-month period starting from the date of the initial exclusion.

If the period of increased income does not last for twelve consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of twelve months of each disallowance (the initial twelve month full exclusion and the second twelve month phase-in exclusion).

No earned income disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

### **Applicability to Child Care Expense Deductions**

The amount deducted for childcare necessary to permit employment shall not exceed the amount of employment income included in annual income. Therefore, for qualifying families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for childcare deductions.



### **Tracking the Earned Income Exclusion**

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent. Interims will be performed if necessary to accurately calculate full, phase-in, and end of exclusion periods.

A form in the tenant file will track:

The date the increase in earned income was reported by the family

The effective date the income was first excluded from annual income for the initial cumulative twelve-month period of exclusion

The name of the family member whose earned income increased

The reason (new employment, participation in job training program, within six months after receiving TANF) for the increase in earned income

The amount of the increase in earned income (amount to be excluded)

The date(s) earned income ended and resumed during the initial cumulative twelve-month period of exclusion (if any)

The date the family member has received a total of twelve months of the initial exclusion

The date the second twelve-month phase-in period began

The date(s) earned income ended and resumed during the second cumulative twelve-month period (phase-in) of exclusion (if any)

The date the family member has received a total of twelve-months of the second phase-in exclusion

The ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

The earned income disallowance is only applied to determine the annual income of family members with disabilities in families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

## **ASSETS**

### **LUMP SUM**

[24 CFR 5.609]

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income, but are to be included in assets.

Lump sum payments from Social Security or Supplemental Security Income (SSI) are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments, which have accumulated due to a dispute, will be treated the same as periodic payments, which are deferred due to delays in processing.

Refer to page 5-25 on the HUD Housing Choice Voucher guidebook for excluded and included assets.

### **CONTRIBUTIONS TO RETIREMENT FUNDS**

[24 CFR 5.603(d)]

Contributions to company retirement/pension funds are handled as follows:

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment. In addition, count only the amount the family would actually receive after any costs or fees involved with liquidating the asset have been deducted.

After retirement or termination of employment, count any amount the employee elects to receive as a lump sum, after any costs or fees involved with liquidating the asset have been deducted.

### **ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

[24CFR 5.603(d)(3)]

The HACSD must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The HACSD will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a

divorce or separation are not considered to be assets disposed of for less than fair market value.

Assets to be considered include: real property, savings, stocks, bonds, and other forms of capital investments.

Excluded assets are: the value of personal property such as furniture and automobiles, as well as a trust fund not under the control of any member of the family or household, as long as the fund is held in trust, or if the asset disposed of for less than fair market value was less than \$10,000.

## **ALLOWANCES**

[24 CFR 5.611]

Adjusted Income is defined as the annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from annual income:

Dependent allowance: \$480 each for family members (other than the head, spouse, or co-head, foster children, or live in aides) who is a minor under 18 years old, an adult full-time student, or a family member with disabilities. An unborn child is not eligible for this allowance.

Elderly/disabled allowance: \$400 per family for families whose head or spouse is 62 years old, or over, or disabled.

Allowable Medical Expenses: Deducted for all family members, except for foster children or live in aides, of an eligible elderly/disabled family in which the head of household or spouse is 62 years old, or over, or disabled. Allowed only if not reimbursed from another source and only the amount that exceeds three percent of the total gross countable household income.

Childcare expenses: Deducted for the care of children under thirteen when childcare is necessary to allow an adult member to work, attend school, or actively seek employment. Allowed only if not reimbursed from another source. Includes child care expenses for the care of foster children.

Allowable disability assistance expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities, only if needed to enable the individual, or an adult family member to work.

## **EXPENSES DEDUCTED OFF OF ANNUAL INCOME**

### **CHILDCARE EXPENSES**

[24 CFR 5.603]

Childcare expenses for children under thirteen (13) years old may be deducted from annual income, if they enable an adult family member to work, actively seek work, or further his/her education. In the case of child care expenses to allow an adult family member to actively seek employment, the family member must provide documentation in the form of a written log indicating the date, beginning and ending times, and the names and addresses where s/he went to actively seek employment.

In the case of a child attending private school, only after-hours care will be counted as childcare expenses.

Childcare expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the childcare. Examples of those adult members who would be considered *unable* to care for the child include:

The abuser in a documented child abuse situation (although an abuser is probably not eligible to live in the assisted unit), or

A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.

Childcare expense deductions are allowed based on the following guidelines:

**Childcare to work:** The maximum childcare expense allowed cannot exceed the amount earned by the person enabled to work whose income is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

**Childcare for school:** The number of hours claimed for childcare may not exceed the number of hours the family member is attending school that includes reasonable travel time to and from school.

**Childcare to actively seek employment:** The number of hours claimed for childcare may not exceed the time taken to actively seek employment as indicated on the family member's written log.

**Amount of Expense:** The HACSD may survey local childcare providers in the community for information on average childcare costs. If the childcare expense information submitted by the participant materially exceeds the average childcare cost, the HACSD will calculate childcare expenses using the lower average childcare cost, and not the amount submitted by the participant.

### **MEDICAL EXPENSES**

[24 CFR 5.609(a)(2), 5.603]

Medical expenses are allowed only for elderly or disabled families, with a head of household or spouse who is elderly, disabled, or both. The IRS Publication 502 will be used as a guide to assist in determining allowable medical expenses in instances when the regulations are unclear.

In order for nonprescription medicines to be considered allowable medical expenses, a doctor's written recommendation must be provided, as well as legible receipts that clearly indicate the type of medicine purchased.

Acupressure, acupuncture, and chiropractic services are considered allowable medical expenses.

Herbal medicines will be allowed, with a medical professional's written recommendation, and legible receipts that clearly indicate the type of medicines purchased.

## **TOTAL TENANT PAYMENT AND TENANT RENT**

### **PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES**

[24 CFR 5.520]

#### **Applicability**

Proration of assistance for mixed families must be offered to any "mixed" applicant or participant family. A "mixed" family includes at least one U.S. citizen or eligible immigrant, and any number of ineligible members.

#### **Prorated Assistance Calculation**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations are performed on the HUD 50058 form.

## **MINIMUM RENT**

[24 CFR 5.630]

### **Minimum Rent Amount**

The HACSD "Minimum rent" is zero. Minimum rent refers to the total tenant payment and includes the combined minimum amount a family must pay towards rent and/or utilities. "Subject to minimum rent" means the minimum rent was the greatest of either 30 percent of the monthly-adjusted income, 10 percent of the monthly gross income, or the minimum rent.

### **Hardship Requests for an Exception to Minimum Rent, Criteria for Hardship Exception, Families, Right to Hardship Exception, Suspension of Minimum Rent, Temporary Hardship, Long-Term Duration Hardships, and Retroactive Determination**

All above minimum rent activities that fall under 24 CFR 5.630 and under the October 21, 1998 Quality Housing and Work Responsibility Act are not applicable as long as the HACSD has zero minimum rent.

## **ZERO HAP**

A family determined to be ineligible for assistance because its TTP exceeds the lower of the gross rent or payment standard will continue on the program for 180 days after the determination of zero pay. A notice of intended action will be issued to the family effective the initial date of the zero pay status. If the family moves during the 180 days while in zero pay status, the HACSD may not enter into a HAP contract if the family is ineligible for assistance at the new location. However, if the family is eligible for assistance at the new location, the HACSD may enter into a HAP contract to provide assistance so long as the family has an active voucher.

# INITIAL APPROVAL and BRIEFING

[24 CFR 982.301, 982.302]

## INTRODUCTION

The HACSD provides families selected to participate all the tools necessary to locate an acceptable housing unit. The HACSD provides families the necessary information regarding the program and how they can achieve maximum program benefits, while complying with program requirements. When eligibility has been determined, the HACSD conducts a mandatory briefing designed to ensure that families know how the program works. The briefing provides a broad description of owner and family responsibilities, the HACSD procedures, and the steps the families must take to lease a unit. In addition, families receive briefing packets, which provide more detailed information about the program, including the benefits of moving outside areas of poverty and minority concentration. This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for changes in family composition.

## INITIAL ELIGIBILITY APPROVAL

All preferences claimed on the pre-application, or while the family is on the waiting list, will be verified as follows:

After the family is selected from the waiting list

The families' preference should exist at the time the preference is claimed, and must exist at the time of selection from the waiting list, because the claim of a preference determines the families' placement on the waiting list. The families' preference will be determined at the time the full application is completed, but the family must meet the preference at the date of selection from the waiting list.

After a family is selected from the waiting list, applicants will be required to:

Complete a full application in his or her own handwriting, unless a disabled person requests assistance, as reasonable accommodation. The HACSD staff may interview the applicant to clarify and review the information on the full application.

The full application will be mailed to the applicant. The applicant must complete the full application, and provide all requested documentation and information.

### **REQUIREMENT TO ATTEND INTERVIEW**

The HACSD may require a full application interview attended by all adult family members. The purpose of the interview is to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is true and complete.

All adult family members must sign all appropriate areas of the housing application.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, the HACSD may reject the application. The interview may be held in the office, by telephone, or at the applicant's home, upon request by a family with a member with disabilities, as a reasonable accommodation.

Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than seven days after the original appointment date. The request must be made to the staff person who scheduled the appointment. The request may be in writing or by telephone if the staff person answers the telephone. A recorded telephone message is not a valid request.

Reasonable accommodation, such as accessible offices, inclusion of an advocate, or a home visit, will be provided to a disabled family upon request. The disabled family's designee will be allowed to participate in the interview process at the family's request.

If an application is denied due to a failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review.

All adult members must sign the HUD Form 9886, Release of Information, the application form, all HACSD-required supplemental documents, the declarations and consents related to citizenship/immigration status, a consent form to release criminal conviction records and to allow HACSD to receive and use records in accordance with HUD regulations, as well as any other documents required by the HACSD. Applicants may be required to sign additional release of information forms for information not covered by the HUD form 9886.



Applicants may not amend these documents or write notes of disclaimers on them. A family who alters any HACSD documents invalidates the documents and the family's application will be denied.

Failure to complete required forms, or provide requested information, will be cause for denial of the application for failure to provide necessary certifications, releases, and documents, as required by HUD or the HACSD.

The HACSD will request additional documents or information in writing, if it determines at or after the interview, that they are needed.

If the requested information is not supplied by the due date, the HACSD will provide the family a notification of denial for assistance.

### **VERIFICATION**

[24 CFR 982.201(e)]

Information provided by the applicant is verified using the verification procedures outlined in this Plan. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, eligible citizenship, criminal history, and other pertinent information will be verified. Verifications may not be more than 60 days old at the time of issuance of the voucher.

### **PRIOR TO THE BRIEFING**

Families determined to be ineligible will be notified in writing of the reason for denial, and given an opportunity to request an informal review or an informal hearing if denied due to a determination of legal residency.

If the HACSD denies the applicant a preference [24 CFR 982.207] or for not meeting income targeting, it will notify the applicant in writing, indicating why, and advising him/her of the opportunity to request an informal review with a departmental representative. If the preference or income targeting denial is upheld, as a result of the review, or the applicant does not request a review, the applicant will be returned to the waiting list without benefit of the preference or income category. Applicants may exercise other rights if they believe they have been discriminated against.

Applicants who falsify documents, or make false statements in order to qualify for any preference or income requirements, will be removed from the waiting list.

### **MULTIPLE FAMILIES IN THE SAME HOUSEHOLD**

Applicants consisting of two families living together who apply together, (such as a mother and father with a daughter and her husband and/or children) will be treated as a family unit and are eligible for one voucher.

### **DETERMINATION OF ELIGIBILITY**

After the verification process is completed, the HACSD will make a final determination of eligibility [24 CFR 982.201]. This decision is based on information provided by the family, third party documents, HACSD research, and the current eligibility criteria in effect. If the family is determined to be eligible, the HACSD will mail a notification of a scheduled briefing. The purpose of the briefing is to issue the voucher, and orient the family to the program.

### **SPLIT HOUSEHOLDS PRIOR TO VOUCHER ISSUANCE**

When an applicant family divides into two otherwise eligible families, cannot agree as to which new family unit should be processed for eligibility, and there is no determination by a court, the HACSD, to determine which family will be processed for assistance, will consider the following factors, in ranking order of importance, with one (1) of the greatest importance, and five (5) of the least importance:

1. Whether domestic violence was involved in the breakup
2. Which of the two new family units has custody of dependent children.
3. The composition of the new family units, and which unit contains elderly or disabled members
4. Recommendations of social service professionals
5. Which household member's name was on the waiting list

Documentation of these factors is the responsibility of the applicant families. The HACSD will make a determination based on the documentation supplied. Any false or misleading documentation or failure to provide requested information is cause for denial.

The household found not eligible to be processed for assistance will be mailed a notice explaining why, and the right to request an informal review within 14 days.

### **THE BRIEFING**

[24 CFR 982.301, 982.302]

### **INITIAL APPLICANT BRIEFING**

A full briefing will be conducted for applicant families determined to be eligible for assistance. The briefings will be conducted in group meetings. If the family includes

a person with disabilities, the HACSD will make every reasonable effort to accommodate that person to ensure effective communication. A family needing language services, must provide a written request at least seven days in advance of the scheduled briefing.

The purpose of the briefing is to explain how the program works, and to explain the briefing documents to families so that they are fully informed about the program. In addition, information on desirable areas of the community, how the family may file a discrimination complaint, and some important legal resources will be provided. The briefing will enable families to utilize the program to their advantage, and it will prepare them to discuss the program with potential owners and property managers. The HACSD will not issue a voucher to a family, unless the household representative has attended a briefing, and signed the voucher.

### **REQUIREMENT TO ATTEND BRIEFING**

The head of household or spouse is required to attend a briefing after initial approval of eligibility. At the briefing, the head of household must sign the voucher and other required paperwork.

It is the applicant's responsibility to reschedule the briefing if s/he is unable to attend. If the applicant does not reschedule or misses two scheduled briefings, the HACSD may deny admission. The briefing may be held in the office, by telephone, or at the applicant's home, upon request by a disabled family, as a reasonable accommodation. Also, reasonable accommodation may include accessible offices, inclusion of an advocate, or a home visit. The disabled family's designee will be allowed to participate in the briefing at the family's request.

Applicants who fail to attend the briefing and want to reschedule the briefing must make the request to reschedule no later than seven days after the original briefing date. The request must be made to the staff person who scheduled the briefing. The request may be in writing or by telephone if the staff person answers the telephone. A recorded telephone message is not a valid request. Applicants will be offered no more than two opportunities to attend a briefing unless a request is made for reasonable accommodation or documentation of a serious emergency was submitted.

If an application is denied due to a failure to attend the briefing, the applicant will be notified in writing and offered an opportunity to request an informal review.

## **BRIEFING PACKET**

[24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements. The HACSD may include other information and/or materials not required by HUD.

The family is provided with the following information and materials:

The HACSD's policy for requesting extensions or suspensions of the voucher (referred to as tolling), and the term of the voucher

A description of the method used to calculate the housing assistance payment for a family, how the family tenant payment is calculated, and information on the payment standard and utility allowance schedule. Also included is information on how the maximum allowable rent for an assisted unit is determined, and the rent reasonableness standard

Where the family may lease a unit. For a family that qualifies to lease a unit outside the HACSD jurisdiction under portability procedures, information on how portability works

The HUD required tenancy addendum, to be included in the lease

The Request for Tenancy Approval (RFTA) form, and a description of the procedure for requesting approval of a unit

A statement of the HACSD policy on providing information about families to prospective owners.

The subsidy standards, including when and how exceptions are made, and how the voucher size relates to the unit size selected

The HUD brochure "*A Good Place to Live*"

The HUD brochure on lead-based paint entitled, "*Protect Your Family from Lead in your Home*"

Information on federal, state and local equal opportunity laws, and a copy of the housing discrimination complaint form. In addition, the pamphlet "*Fair Housing: It's Your Right*," other information about fair housing laws and guidelines, and the phone numbers of the local fair housing agency, and the HUD enforcement office.

A list of landlords or other parties willing to lease to assisted families, or agencies that help in the search for units. The list may include, if available, those willing to lease units, or agencies able to help families find units outside areas of poverty or minority concentration.

If available, a current listing of accessible units.

The family obligations under the program.

The reasons a family may have its assistance terminated.

The informal hearing/review procedures including when the family must be offered the opportunity for an informal hearing/review.

An information packet including an explanation of how portability works, a list of the names, addresses, and contact names of neighboring housing agencies.

A map or description of areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

Information regarding the HACSD's outreach program for families who are interested in, or experiencing difficulty in, obtaining housing in areas outside of minority concentrated locations.

A copy of HUD form 903 so family may file a discrimination complaint.

A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration.

Sample leases for owners who do not use a lease for their unassisted tenants.

Family Handbook.

The family's rights as tenant and program participant.

Requirements for reporting changes between annual recertifications.

### **ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

At the briefing families are encouraged to search for housing in non-impacted areas and the HACSD will provide assistance to families who wish to do so.

The assistance provided to such families includes:

Direct contact with landlords

Counseling with the family

Providing information about services in various non-impacted areas

Meeting with neighborhood groups to promote understanding

Formal or informal discussions with landlord groups

Formal or informal discussions with social service agencies

Meeting with rental referral companies or agencies

Meeting with fair housing groups or agencies

## **AFTER THE BRIEFING AND BEFORE LEASE-UP**

### **CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

#### **Income Decrease**

When the family properly reports changes in factors that will reduce the total family share prior to the effective date of the HAP contract at admission, the information will be verified and the reduction in family share will be recalculated. Prior to submission of the RFTA, the intake unit will recalculate the reduction in family share. After submission of the RFTA, case management will recalculate the reduction in family share.

#### **Income Increase**

If the family's income increases after it was issued a voucher, the income increase, per the HACSD interim policy, will not be processed until the family's next annual re-examination after the family leases into an assisted unit.

#### **Family Reporting Requirements**

Families must report changes in income, assets, and family composition within 14 days. Families, prior to execution of a HAP Contract, discovered to have provided false, misleading, incomplete or untrue information in order to be found eligible for assistance will have their vouchers rescinded and will not be eligible for return to the waiting list at original date/time of application. These families will be offered an opportunity to request an informal review.

# REQUEST FOR TENANCY APPROVAL, OWNER APPROVAL, LEASES AND CONTRACTS

[24 CFR 982.302, 982.54, 982.453, 982.306]

## INTRODUCTION

[24 CFR 982.305(a)]

**T**he HACSD's program is designed to utilize available resources efficiently, and maximize HUD funds by quickly providing assistance to as many eligible families as the budget allows.

The portability provision of the program allows families issued vouchers to search for units within the jurisdiction of the HACSD, as well as outside the HACSD's jurisdiction, if they qualify for portability. The family must find an eligible unit, with an owner/landlord willing to enter into a housing assistance payments (HAP) contract with the HACSD. This chapter defines eligible housing, and the HACSD policies on initial inspections, lease requirements, the HAP Contract, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

The HACSD's is committed to maintaining a neutral position in issues between owners and program participants and its policy is to strive to recruit new owners to the program, as well as maintain a good relationship with participating owners. The HACSD requires staff to provide owners with prompt and professional service in an effort to maintain an adequate supply of available housing within its jurisdiction. The regulations define when the HACSD must disallow owner participation in the program, as well as the circumstances when the HACSD may use its discretion to disapprove or otherwise restrict owner participation.

## REQUEST FOR TENANCY APPROVAL

[24 CFR 982.302, 982.305(b)]

During the term of the voucher, the family must submit the RFTA and a copy of the proposed lease, including the HUD prescribed tenancy addendum. If the owner's

lease is not submitted, the HACSD may use the HUD model lease. The family must submit the RFTA in the form and manner required by the HACSD.

The owner and the voucher holder must both sign the RFTA.

If families are approved to lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide an employer identification number or social security number, as well as a validation document supporting the number. Ownership will be verified through assessor's office records or a review of the grant deed. The HACSD will request a copy of the management agreement for owners being represented by a management company. The HACSD may request documentation of ownership such as a grant deed, copy of the current tax bill, or other documentation.

The HACSD will not permit the family to submit more than one RFTA at a time.

The HACSD will review the proposed lease and the RFTA documents to determine if they are approvable. The RFTA will be approved if:

- The unit is an eligible type of housing

- The unit meets HUD's housing quality standards (HQS), and any additional criteria identified in this Plan.

- The rent is reasonable.

- The proposed lease complies with HUD requirements.

- The owner is approvable, and there is no owner conflict of interest.

- There are no shared utilities with the exception of some special housing types.

- The family is not leasing a property owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The HACSD will waive this restriction as a reasonable accommodation for a family member with disabilities who provides documentation demonstrating a clear and compelling need for accommodation.

- The owner's address is not the same as the assisted unit except for some special housing types.

In addition to the above, at the time a family initially receives assistance in the unit (new admissions and moves), the family share of rent may not exceed 40 percent of the family monthly-adjusted income.



### **DISAPPROVAL OF THE RFTA**

If the RFTA cannot be approved for any reason, the landlord and the family are notified in writing. The owner and family are advised of the steps necessary for approval of the RFTA, and the family is issued another RFTA to continue to search for an eligible unit. An RFTA should be disapproved if the family would be in zero HAP status.

The owner may be given the opportunity to, either provide another RFTA, or to verbally change the information on the submitted RFTA to make it acceptable to the HACSD.

### **UNIT SIZE SELECTED**

[24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the voucher. There are three criteria to consider:

Subsidy Limitation: The payment standard for a family shall be the **lower of**:

The HACSD payment standard amount for the family voucher size; or

The HACSD payment standard amount for the unit size rented by the family.

The contract rent and utilities (gross rent).

Utility Allowance: The utility allowance used to calculate the gross rent is based on the **actual size** of the unit the family selects, regardless of the size authorized on the family's voucher.

Housing Quality Standards: The standards allow a maximum occupancy of two persons per living/sleeping room as shown in the table below. Sleeping area would include: living room, den, dining room, library, or other rooms used for sleeping.

### **HQS GUIDELINES FOR MAXIMUM OCCUPANTS**

| <b>Unit Size</b> | <b>Maximum Number Allowed in Household*</b> |
|------------------|---|
| 0 Bedroom        | 2   |
| 1 Bedroom        | 4   |
| 2 Bedrooms       | 6   |
| 3 Bedrooms       | 8   |
| 4 Bedrooms       | 10  |
| 5 Bedrooms       | 12  |
| 6 Bedrooms       | 14  |

\*These guidelines are for an average unit. If there is a den, library or dining room or other room that may be used for sleeping, in addition to the living room, these standards may be increased. For example, a two-bedroom house with a living room and a den may have room for up to eight persons without violating HQS space limitations.

### **RENT LIMITATIONS**

[24 CFR 982.507]

The HACSD will make a determination as to the reasonableness of the proposed rent in relation to comparable unassisted units available for lease. Rent reasonableness will be determined: upon approval of a new lease, prior to an owner rent increase, and if the annual HUD published fair market rents are reduced by five percent or more 60 days prior to the HAP contract anniversary. All active participant files must contain a copy of the most current rent reasonableness determination. An owner, with a 30-day notice, could be required to reduce the rent, if it is found the unit is no longer rent reasonable.

By accepting a monthly housing assistance payment from the HACSD, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units on the premises. Units in a tax credit property are considered assisted units and are not subject to this requirement. The owner may be required to provide the HACSD with information requested on rents charged elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the HACSD.

## **DISAPPROVAL OF PROPOSED RENT**

[24 CFR 982.502]

At the family's request regarding an RFTA, the HACSD will negotiate with the owner to reduce the rent or pay for more of the utilities in the following instances:

The rent is not reasonable.

The rent is not affordable because the family share would be more than 40 percent of the family's monthly-adjusted income.

If the rent is approved after negotiations with the owner, the HACSD will notate, date, and initial the RFTA and continue processing. If the revised rent involves a change in the provision of utilities, the HACSD may notate, date and initial the changes on the submitted RFTA, or may request the owner to submit another RFTA.

If the owner does not agree to the rent reduction after the HACSD has attempted to negotiate a revised rent, the family and owner will be notified in writing that the lease is disapproved.

## **ELIGIBLE TYPES OF HOUSING**

[24 CFR 982.601]

The HACSD will approve the following types of housing:

All structure types that meet HQS

Manufactured homes where the tenant leases the mobile home and the pad

Manufactured homes where the tenant owns the mobile home and leases the pad.

Congregate facilities (only the shelter rent is assisted).

Single Room Occupancy (SRO).

Shared housing that meets HQS.

Group homes that meet HQS.

Travel trailers, motor homes, or other structures designed to be mobile **are not** eligible for Section 8 rental assistance.

A mobilehome that is designed to be set-up permanently in one location is eligible for Section 8 rental assistance.

A family can own a rental unit but cannot reside in it while being assisted, except in the case of the family owning the mobilehome and leasing the pad or the owner of a cooperative. The owner of the assisted unit, except in the case of a mobilehome owner leasing the pad or the owner of a cooperative, may never benefit from the assistance. The owner of the assisted unit may never be a live-in aide for the family. In shared housing, the family may never, in any circumstances, reside with a resident owner who is a relative and there are no exceptions for reasonable accommodation in this instance.

The HACSD may not permit a voucher holder to lease a unit that is receiving project-based Section 8 assistance or any other duplicative rental subsidies.

## **SECURITY DEPOSIT REQUIREMENTS**

[24 CFR 982.313]

The owner is not required to, but is encouraged to collect a full security deposit from the tenant.

Security deposits charged by owners may not exceed those charged to unassisted tenants, nor more than the lesser of legal limitations or the maximum amount indicated on the HAP Contract.

## **TENANT SCREENING FOR SUITABILITY**

[24 CFR 982.307)]

The HACSD will take into consideration any of the criteria for admission described in the chapter on eligibility factors.

The HACSD will not screen family behavior or suitability for tenancy. The HACSD will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family s/he approves for tenancy. At or before HACSD approval of the tenancy, the HACSD will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982.307(a)(3)]

Payment of rent and utility bills

Caring for a unit and premises

Respecting the rights of other residents to the peaceful enjoyment of their housing

Drug-related criminal activity, or other criminal activity that is a threat to the health, safety or property of others

Compliance with other essential conditions of tenancy

## **INFORMATION TO OWNERS**

[24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the HACSD will furnish prospective owners upon written or verbal permission from the family, the family's current address as shown in its records and, if known to the HACSD, the name and address of the landlords for the family's current and prior addresses.

The HACSD will make an exception to this requirement, if the family's whereabouts must be protected due to domestic abuse or witness protection.

The HACSD will provide documented information in the participant file regarding tenancy history for the past five years, if available, upon written permission of the family. Only the supervisors may provide this information. The HACSD will provide the following information, based on documentation in its possession:

Eviction history

Documented damage to rental units

Other documentation of tenancy history such as, warning notices or three-day notices

The HACSD will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the HACSD's policy on release of information to prospective landlords is applied uniformly to all families, and will be included in the family's briefing packet.

The owner may request the HACSD obtain and review criminal or sex offender registration records for grounds to deny a tenant application, or evict a tenant. The HACSD will charge the owner a fee based on the costs incurred by the HACSD,

including the costs charged by the law enforcement agency, the HACSD staff time and administrative costs. The owner may not charge the tenant for this fee.

The HACSD **must not** release any criminal information or sex offender information to the owner, but a housing supervisor will review the information, and if no information relevant to application or eviction is found, will notify the owner. If information relevant to the application or eviction is found, the housing supervisor will present his/her findings in writing to the program manager who will authorize the findings and sign the letter issued to the owner. The letter will not specify the criminal or sex offender history, but will merely state that there may be cause for denial or eviction of the tenant. If the owner sends documentation of needing specific information for an eviction, the program manager must approve the release of any information in accordance with the regulations. [24 CFR 5.903, 24 CFR 5.905]

The HACSD must **NEVER** release specific personal information to owners regarding their former Section 8 tenants.

## **OWNER DISAPPROVAL**

[24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The HACSD will disapprove the owner for the following reasons:

HUD, or another agency, has notified the HACSD in writing that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has notified the HACSD in writing that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or another federal equal opportunity requirements and such action is pending.

HUD has notified the HACSD in writing that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

Unless the lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The HACSD will waive this restriction as a reasonable accommodation for a family member who is a person with a disability who provides documentation of a clear and compelling need for the accommodation.

In cases where the owner and tenant bear the same last name, the HACSD may, at its discretion, require the family and/or owner to certify whether they are related to each other in any way.

The HACSD will **never** issue a payment to the owner at the participant's address with the exception of some special housing types.

In cases where the payment is mailed to a post office box, and there is a question regarding the relationship between the owner and the tenant, the HACSD may submit a post office request to confirm the owner's physical address.

## **OWNER RESTRICTIONS AND PENALTIES**

[24 CFR 982.435]

If an owner has committed fraud or abuse, or is guilty of frequent or serious contract violations, the HACSD may restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The HACSD may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner, the HACSD will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance, and the seriousness and number of violations.

Refer to chapter on fraud investigations for further information.

## **LEASE REQUIREMENTS**

[24 CFR 982.308]

The HACSD will review the lease for HUD required lease provisions. The tenant must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.

Unless the lease was effective prior to June 17, 1998, the family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The HACSD will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

The family and owner must submit a standard form of lease used in the locality by the owner and that is generally used for other unassisted tenants on the premises. If the owner does not use a standard lease for rental to unassisted tenants, the owner

may use another form of lease, such as a HACSD model lease. The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

- The names of the owner and tenant, and
- The address of the unit rented, and
- The amount of the monthly rent to owner, and
- The utilities and appliances to be supplied by the owner, and
- The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be included in the lease.

The owner's lease must include the lead warning statement, and disclosure information required by 24 CFR 35.92(b).

The lease must state that drug-related criminal activity engaged in by the tenant, any household member, any guest on or near the premises, or any person under the tenant's control on the premises, is grounds for termination of tenancy.

The lease must state that the family may be evicted if the owner determines:

- Any household member is illegally using a drug
- A pattern of illegal use of drugs by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents

The lease must state that the following types of criminal activities by a "covered person" are grounds for termination of tenancy.

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the residences by people residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises by a tenant, household member, or guest



Any violent criminal activity on the premises by any other person under the tenant's control

The lease must state that the owner may terminate tenancy if a tenant is:

Fleeing to avoid prosecution, custody, or confinement for a felony (high misdemeanor in New Jersey) after conviction for a crime, or attempt to commit a crime

Violating a condition of probation or parole imposed under state or federal law

## **ACTIONS BEFORE LEASE TERM**

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

The HACSD has inspected the unit and has determined that the unit satisfies HQS

The HACSD has determined that the rent charged by the owner is reasonable

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum

The HACSD has approved the lease in accordance with program requirements

For the initial lease for the unit, the family share (total family contribution) is not more than 40% of the family's monthly-adjusted income.

A determination has been made the family is eligible for a HAP payment.

## **SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. However, the HACSD must be informed of all separate agreements. Owners are prohibited from collecting, and tenants are prohibited from paying, additional rent not authorized by the HACSD. Owners are prohibited from charging for items normally included in the rent of unassisted units.

Owners and families may execute separate agreements for services, appliances, and other items not included in the lease.

Any appliances, services or other items, routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included

in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

## **CONTRACT EXECUTION PROCESS**

[24 CFR 982.305(c)]

The HACSD cannot enter into a HAP contract if a family is in zero HAP status. If that is the case, the HACSD must deny the RFTA. If the family is eligible for assistance during the term of its voucher, an RFTA may be processed.

The HACSD prepares the HAP contract for execution. The family and the owner will execute the lease agreement, and the owner and the HACSD will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The HACSD will retain copies of all signed documents. The terms of the lease and the contract MUST match.

The HACSD may change the amount of its assistance or contract rent with a contract amendment. Changes in lease term and utilities require a new contract.

The HACSD makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed (signed and dated) more than 60 days after commencement of the lease term, and no payments will be made until the contract is executed. However, regardless of the execution date of the contract, the beginning and ending term of the contract must always match the term of the lease.

The following HACSD representatives are authorized to execute a contract on behalf of the HACSD: Housing Specialist I or above.

The owner or owner's representative must provide a telephone number.

## **CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new contract and lease.

The HACSD will process a change of ownership only upon the written request of the new owner, accompanied by a copy of the escrow statement, or other document showing the transfer of title, such as a recorded deed, the employee identification number or social security number of the new owner, and validation documents to verify employee identification or social security number.

The HACSD, upon approval of assignment of the contract to the new owner, may notify the new owner in writing that the contract assignment was approved, and the

new owner assumes the conditions and obligations of the existing contract. The new owner will be mailed a copy of the contract, upon request.

If the new owner does not want an assignment of the contract, the HACSD will terminate the HAP contract with the old owner, since s/he is no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit. If the family enters into a new lease, the owner must enter into a new HAP contract with the HACSD.

RESERVED

# HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

## INTRODUCTION

**H**ousing Quality Standards (HQS) are the HUD minimum standards for assisted rental units for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, out buildings, as well as the unit. Newly leased units must pass an HQS inspection before the beginning of the housing assistance payment.

The HACSD will inspect each unit under contract at least annually. The HACSD will also have a supervisor or other qualified person perform, throughout the year, more than the statistically significant SEMAP required random sample of quality control (QC) inspections. The QC inspections will ensure program consistency, and that the HACSD's required standards are being met. This chapter describes the HACSD procedures for performing HQS and other types of inspections, as well as the standards for the timeliness of repairs. In addition, this chapter explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HACSD requirements.

## INSPECTION TYPES AND GUIDELINES

[24 CFR 982.401(a), 982.405]

The HACSD may adopt local requirements of acceptability in addition to those mandated by the HUD Regulations.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. In addition, the HACSD will not promote any additional criteria likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service when the unit is inspected.

If the tenant is responsible for supplying the stove and/or the refrigerator, the HACSD will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify, by telephone, the date the appliances are in the unit and working. The HACSD will not conduct a re-inspection. The term of the lease and HAP contract will not begin until the confirmed date of the stove and/or refrigerator in-place and working.

There are five types of inspections the HACSD performs:

1. Initial/move-in: Conducted after receipt of the RFTA.
2. Annual: Must be conducted within twelve months of the last annual inspection.
3. Move-out/vacate: May be conducted, upon request, to observe and document reported excessive tenant damage in order to make a determination of tenant violations of the lease.
4. Special/complaint: At request of owner, family, an agency, or another third party.
5. Quality Control (QC). This inspection involves a required minimum random sample of previously completed inspections.

## **INITIAL HQS INSPECTION**

[24 CFR 982.401(a), 982.305(b)(2)]

### **TIMELY INITIAL HQS INSPECTION**

The HACSD will attempt to make telephone contact within one business day after receiving an RFTA. The HACSD will inspect the unit, determine whether the unit satisfies the HQS, and notify the family and owner of the determination within ten calendar days after the family and the owner have submitted a RFTA, and the unit is ready for inspection.

The ten-day inspection and notification requirement does not apply in instances when the unit is not available for inspection. The RFTA will include a "date unit available for inspection" section.

The HACSD will make every reasonable effort to conduct timely initial HQS inspections for the family.

The initial inspection will:

Determine if the unit and property meet HQS as defined in this Plan

Document the information to be used for determination of rent-reasonableness

If the unit fails the initial HQS inspection, the owner and/or the tenant will be advised to notify the HACSD once repairs are completed.

On an initial inspection, the owner will be given a reasonable amount of time to correct the items noted as fail, depending on the amount of fail items, and the complexity of work to be done.

The owner will be allowed up to three re-inspections for repair work to be completed.

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit. The HACSD will deny the RFTA with copies to the family and the owner, along with another RFTA packet to the family.

## **ANNUAL HQS INSPECTIONS**

[24 CFR 982.405(a)]

The HACSD conducts an inspection in accordance with HQS at least annually as required by SEMAP and no more than 120 days prior to the current annual recertification. Special inspections may be scheduled, upon request, between anniversary dates.

The landlord must correct HQS deficiencies that cause a unit to fail, unless the fail is the tenant's responsibility.

The family must allow the HACSD to inspect the unit at reasonable times with reasonable advance notice. [24 CFR 982.551 (d)]

Inspections and re-inspections will be conducted on business days only, or on weekends as a reasonable accommodation for the disabled.

The HACSD will notify the family in writing, or by telephone, at least five days prior to the inspection. The HACSD five-day advance notification requirement is not necessary, if the family agrees to an inspection with less than five days notice; however, the family will not be penalized for not being available.

If the family does not contact the HACSD to reschedule a scheduled inspection, or if the family misses two inspection appointments, the HACSD may consider the family

to have violated a family obligation, and the family's assistance may be terminated in accordance with the termination procedures in the Plan.

### **TIME STANDARDS FOR REPAIRS**

Emergency items that endanger the family's health or safety must be corrected by the owner or family within 24 hours of notification.

For non-emergency items, repairs must be made within 30 days.

For major repairs, the housing specialist may approve an extension beyond 30 days.

### **RENT INCREASES OR EXTENSIONS ON 30-DAY MOVE-OUT NOTICES**

Rent to owner increases or extensions on 30-day move-out notices may not be approved if the unit is in a failed condition.

### **HQS BREACH**

The inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches.

### **MOVE OUT/VACATE INSPECTION**

A move out inspection may be performed, upon landlord request, to observe and document possible tenant lease violations.

### **SPECIAL/COMPLAINT INSPECTION**

[24 CFR 982.405(c)]

The HACSD will conduct a complaint inspection when it receives landlord or tenant notice that the unit does not meet HQS.

The HACSD may conduct a special inspection based on information from third parties, such as neighbors or public officials.

The HACSD will inspect only the items that were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

When the annual inspection date is within 120 days of a special inspection, the special inspection may be categorized as an annual inspection, as long as all annual inspection procedures are followed.



## **QUALITY CONTROL INSPECTION**

[24 CFR 982.405(b)]

Housing supervisors or other qualified personnel will conduct the SEMAP required minimum number of quality control (QC) inspections. The purpose of QC inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure consistency among inspectors in the application of HQS.

The sampling of files will include recently completed inspections (within the three prior months) reflecting a representative sample of neighborhoods, types of inspections (initial, transfer and new lease), and inspectors.

## **ADDITIONAL HACSD HQS CRITERIA**

[24 CFR 982.401 (a)]

The HACSD adheres to HUD HQS, as well as the following local standards:

### **LOCAL CODES**

[24 CFR 982.401(a)(4)]

No interior door double cylinder deadbolt locks or interior door locks that unlock only from the outside of the room.

No double cylinder deadbolt locks allowed on exterior door unless the unit has another exterior door without said lock.

If bedrooms have security bars, at least one window in each bedroom must have no security bars or security bars with a quick release device usable and accessible to a small child.

## **EMERGENCY REPAIR ITEMS**

[24 CFR 982.404(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

Waterlogged ceiling in imminent danger of falling

Major plumbing leaks or flooding

Strong smelling natural gas leak or fumes

Electrical problem likely to cause shock or fire

Jagged, broken glass where someone could be injured

Other immediate observable danger to the health and safety of the family

The HACSD may give a short extension of not more than 24 additional hours whenever the responsible party cannot be notified, or it is impossible to complete the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified, or it is impossible to make the repair, the proper authorities will be notified by the HACSD. The HACSD will take the necessary steps to advise and assist the family on relocation.

If the emergency repair item(s) are not corrected in the time period required by the HACSD, and the owner is responsible, the housing assistance payment will be abated and the HAP contract may be terminated.

If the emergency repair item(s) are not corrected in the time period required by the HACSD, and it is an HQS breach that is a family obligation, the HACSD will terminate the assistance to the family with a 30-day termination notice.

## **NON-EMERGENCY REPAIR ITEMS**

All repair items not described above are considered non-emergency, 30-day repair items.

### **SMOKE DETECTORS**

Inoperable smoke detectors will be treated by the HACSD as 30-day fail items.

The owner must install working batteries in the smoke detectors upon initial lease. After that, the family must replace the batteries, when the need arises.

If the HACSD determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 30-days.

The HACSD will issue a verbal warning to any family determined to have purposely disconnected the unit smoke detector. The warning will state that deliberate disconnection of the unit smoke detector is considered a violation of the HQS. The family's assistance may be terminated for multiple violations of this requirement.

## **DETERMINATION OF RESPONSIBILITY**

[24 CFR 982.404, 982.54(d)(22)]

Certain HQS deficiencies are considered the responsibility of the family:

Tenant-paid utilities not in service

Failure to provide or maintain family-supplied appliances

Failure to allow the owner access to the premises to make repairs after reasonable notice was given

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

"Normal wear and tear" is defined as items that could not be charged against the tenant's security deposit under state law or court practice.

The HACSD will attempt to make a determination of family or owner responsibility. The owner or tenant may appeal the HACSD determination by phone, or in writing and must provide documentation from an industry expert, such as a plumber or electrician, to substantiate the appeal.

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict the family for serious or repeated violations of the lease. The HACSD may terminate the family's assistance on that basis.

If the family is responsible, but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be notated regarding the family violations.

## **CONSEQUENCES IF OWNER IS RESPONSIBLE**

CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet HQS for items that are the owner's responsibility, the owner must complete the necessary repair(s) in the time period specified by the HACSD. If the necessary repairs are not made within the required time period, the assistance payment to the owner will be abated on the first of the following month.

### **ABATEMENT**

A notice of abatement will be sent to the owner, and the abatement will be effective the first of the month following the deadline for correction.

The HACSD will inspect abated units within five days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS.

### **EXTENSION IN LIEU OF ABATEMENT**

The HACSD will grant an extension in lieu of abatement in the following cases:

The owner has a good history of HQS compliance.

The failed items are minor in nature.

There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.

The owner makes a good faith effort to make the repairs.

The repairs are delayed due to climate conditions.

The extension will be made for a period of time not to exceed 30 additional days. At the end of that time, at the HACSD's discretion, if the work is not completed, or substantially completed, the HACSD will terminate assistance.

### **TERMINATION OF CONTRACT**

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a contract termination notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the HACSD may rescind the termination if the tenant chooses to remain in the unit. Only one HQS inspection will be conducted after the termination notice is issued.

## **CONSEQUENCES IF FAMILY IS RESPONSIBLE**

[24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the HACSD will require the family to make any repair(s) or corrections within 30 days. The owner's rent will not be abated for items found to be the family's responsibility.

If the repair(s) or correction(s) are not made by the deadline, the HACSD will issue a notice to terminate assistance to the family, along with an opportunity to request an informal hearing, and an owner notice to terminate the HAP contract on the same date. If the family requests an informal hearing, the housing assistance payments must continue until a decision is rendered. In addition, the owner must be notified that the housing assistance payments will continue until a hearing decision is rendered.

RESERVED

# Chapter 10

## OWNER PAYMENTS, RENT LIMITS AND RENT REASONABLENESS

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

### INTRODUCTION

This chapter discusses the HACSD processes and procedures for Housing Choice Voucher rent reasonableness determinations, payments to owners, and rent adjustments. It is the HACSD's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, as specified in 24 CFR 982.507(b).

### RENT LIMITATIONS

The rent to owner is limited by rent reasonableness, the maximum rent allowed at initial occupancy (24 CFR 982.508), and the lease.

The HACSD must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

A unit cannot be approved if the family will be in zero HAP status.

At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, the family's rent share may not exceed 40 percent of the family's monthly-adjusted income [24 CFR 982.508].

During the initial term of the lease, the owner may not raise the rent to the family. After the initial lease term, the owner may request a rent adjustment with a sixty-day written notice to the family and the HACSD [24 CFR 982.308(g)]. A rent adjustment is subject to the approval of the HACSD for rent reasonableness.

## **RENT REASONABLENESS DETERMINATIONS**

[24 CFR 982.507]

The HACSD will determine and document, on a case-by-case basis, that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

The HACSD will not approve a lease until reasonable initial rent has been determined. The HACSD must determine the reasonable rent before any increase in the rent to the owner, and if there is a five percent decrease in the published fair market rent (FMR) in effect 60 days before the contract anniversary (for the unit size rented by the family), as compared with the FMR in effect one year before the contract anniversary. All HACSD active participant files will contain documentation of the last applicable reasonable rent determination.

The HACSD must redetermine rent reasonableness, if directed by HUD or based on a need identified by the HACSD's auditing system. The HACSD may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the HACSD.

The owner will be advised that upon acceptance of each monthly payment, s/he is certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the area.

If requested, the owner must give the HACSD information on rents charged by the owner for other units on the premises or elsewhere. Units of a density bonus or tax credit property are not considered comparable because they are considered assisted. The HACSD may request additional information, such as owner rent rolls, if it appears the owner has a tendency to charge higher rents to program participants, or if needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from newspapers, realtors, professional associations, owners, market surveys, MarketPoint Advisors, and other available sources.

The market areas for rent reasonableness determinations are the nearby neighborhoods or communities of the subject unit. Subject units within a defined housing market area will be compared to similar units within the same area. Generally, bedroom size and location of units are the most important rent reasonableness criteria.



The following items may be used for rent reasonableness documentation:

- Size (number of Bedrooms/square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing Services
- Unit Age
- Unit Type
- Maintenance
- Utilities provided by the owner

### **RENT REASONABLENESS METHODOLOGY**

The HACSD uses an “appraisal” method to evaluate the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and the comparables.

The HACSD uses an automated database of unassisted apartments that provides detailed reports for placement in the participant file. The data is updated twice a year. For unusual unit types such as: houses, mobilehomes, duplexes, townhouses, or rented spaces, the HACSD uses various sources of information. These sources include the internet, newspaper advertising, and information from real estate professionals. If no comparable information is available for unusual unit types, staff will provide information on the closest comparable unit type available.

### **OWNER PAYMENTS**

[24 CFR 982.451]

Once the HAP contract is executed, the HACSD begins forwarding payments to the landlord by mail or electronic deposit. Each month, around the first working day of the month, the County of San Diego will direct deposit or disburse housing assistance payments to the landlords.

Payments not received by the 10<sup>th</sup> working day of the month, will be replaced upon request from the payee, and a stop payment will be put on the check.

### **EXCESS PAYMENTS**

The total of rent paid by the tenant, plus the housing assistance payment to the owner, may not exceed the contract rent. The owner must immediately return any excess payments to the HACSD. The HACSD may deduct the monies owed from future payments to the landlord.

Owners who do not return excess payments may be subject to penalties, as outlined in the "Owner or Family Debts to the HACSD" chapter of this Plan.

### **LATE PAYMENTS TO OWNERS**

In keeping with generally accepted practices in the local housing market, the HACSD must make housing assistance payments to the owner promptly, and in accordance with the HAP contract.

The HACSD will, upon owner request, pay a reasonable late fee for housing assistance payments not mailed to the owner by the first working day of the month. The late fee will conform to the late fee for the tenant on the owner's lease, or a reasonable late fee, as determined by the HACSD.

Proof of date of mailing is:

Date the HAP register was run

Proof of date owner received is:

Five calendar days after date of mailing by the HACSD

In the case of payments electronically deposited into the owner's designated bank account, the date the bank shows as the deposit date will be the official date of record and will be the determining factor in cases involving late payment penalties.

The HACSD will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the HACSD's control, such as a delay in the receipt of program funds from HUD. The HACSD will use only administrative fee income or the administrative fee reserve as its source of late payment penalty payments.

The HACSD will not use any program funds for the payment of late fee penalties to the owner.

# RECERTIFICATIONS, INTERIMS AND OTHER REGULAR ACTIVITIES

[24 CFR 982.516]

## INTRODUCTION

In accordance with HUD requirements, the HACSD will reexamine the income and household composition of families at least annually. Families will be provided accurate annual and interim rent adjustments, and will be given reasonable notice of rent increases. All annual activities are coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. This chapter defines the HACSD's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

## MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the HACSD may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition, including prosecution.

## ANNUAL ACTIVITIES

[24 CFR 982.516, 982.405]

There are two activities the HACSD must conduct every 12 months.

Recertification of family income, assets, and composition

HQS inspection

The HACSD conducts these activities together. The HACSD produces a monthly listing of units under contract scheduled for annual review. The participants on this listing are scheduled for housing quality standards inspections, and eligibility reviews through the case management unit. This review complies with the HUD requirement

for an annual review of family income, assets, and composition, and HQS inspections.

## **ANNUAL RECERTIFICATION**

[24 CFR 982.516]

Families must be recertified at least annually. Family members must report and HACSD must verify the U.S. citizenship/eligible immigrant status of family members.

## **MOVES BETWEEN REEXAMINATIONS**

When families move to another dwelling unit, a reexamination will be scheduled unless a recertification has occurred within 120 days of the new HAP contract effective date. The anniversary date will always be changed to the month of the execution of the new HAP contract.

Income limits are used only upon initial admission to the program, and are not applicable upon reexamination or transfer. However, the 40% limitation rule does apply, and the family must be eligible for a HAP at the new unit.

## **REEXAMINATION NOTICE TO THE FAMILY**

The HACSD maintains a reexamination tracking system. The household will be notified, in advance of the anniversary date, by mail or telephone, of the date and time for the interview and inspection. If requested as an accommodation for a person with a disability, the HACSD will contact the person by telephone, through a relay service for the hearing impaired, or in another appropriate manner. The HACSD will also mail the notice to a third party, if requested, as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification of the need presented by the disability.

## **PROCEDURE**

The HACSD's procedure for conducting annual recertifications will be:

Schedule the date and time of appointments, and mail an advance notification to the family.

Contact the family by telephone, but if less than five days advance notice is given, the family will not be penalized for declining the appointment.

## **COMPLETION OF ANNUAL RECERTIFICATION**

The HACSD will complete all recertifications at least 30 days prior to the family's anniversary date, unless a delay is caused by a family action or inaction. The HACSD will issue, a reasonable time in advance, a family rent change notice, unless the delay in notification was the result of a family action or inaction.

### **PERSONS WITH DISABILITIES**

Persons with disabilities unable to come to the HACSD office will be granted an accommodation by conducting the interview at the person's home, upon confirmation that the accommodation is appropriate for the disability.

### **COLLECTION OF INFORMATION**

[24 CFR 982.516(f)]

The HACSD has established recertification procedures that ensure that the income data provided by families is complete and accurate.

The family must complete the recertification forms. The HACSD may require the family to complete a personal declaration form prior to the recertification interview.

The HACSD representative may, upon request for reasonable accommodation for a person with a disability, and if appropriate for the disability, interview the family at home, enter the information provided by the family on the recertification forms, review the information with the family, and have the adults sign the forms.

The HACSD may conduct the recertification interview at the HQS inspection appointment.

The HACSD must request written third party verification of income, assets, allowances and deductions.

### **REQUIREMENTS TO ATTEND**

The following family members are required to attend a recertification interview, show a picture identification, and sign a certification in the presence of a housing representative:

The head of household or spouse or co-head

If the head, spouse or co-head is unavailable for an interview at the time of the inspection, s/he will be provided an office appointment for an interview. Exceptions may be given as a reasonable accommodation, or in emergency circumstances, such as hospitalization.

### **FAILURE TO RESPOND TO NOTIFICATION TO RECERTIFY**

Families scheduled for an interview appointment must attend that appointment, or call to reschedule the appointment. The appointment will be rescheduled one final time, upon request of the family.

If the family fails to attend a scheduled appointment, and fails to call to reschedule, the HACSD may either:

Reschedule the appointment one final time, or

Send a notification of termination of assistance, and opportunity for an informal hearing.

The family will not be offered a third appointment, unless it can provide documentation of an emergency situation that prevented it from attending the appointment, or if requested as a reasonable accommodation for a person with a disability.

#### **DOCUMENTS REQUIRED FROM THE FAMILY**

In the notification letter to the family, the HACSD will include instructions for the family to provide the following:

1. Documentation of income
2. All forms and releases completed and/or signed and dated by the family
3. Documentation of assets
4. Documentation of deductions/allowances
5. Personal declaration form completed by head of household
6. Other information, as requested

Releases and certifications altered or amended by the family are unacceptable and would be considered "failure to provide."

#### **VERIFICATION OF INFORMATION**

The HACSD will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 120 days old as of the effective recertification date.

#### **TENANT RENT INCREASES**

A reasonable advance notice of a tenant rent increase is mailed to the family prior to the scheduled effective date of the increase, unless the delay in notification was caused by an action or inaction of the family.

If a reasonable advance notice cannot be issued, the tenant rent increase will be effective on the first of the second month after notification, unless the delay in notification was caused by an action or inaction of the family.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there may be a retroactive increase in rent back to the scheduled effective date of the annual recertification.

### **TENANT RENT DECREASES**

A decrease in tenant rent will be processed in a timely manner. If the family causes a delay, so that the processing of the reexamination is not complete by the anniversary date, the rent change will be effective on the first day of the month following completion of the reexamination processed by the HACSD.

The family must provide a special written request and appropriate documentation for a rent decrease to be processed on a date other than the reexamination date.

If the HACSD is responsible for a delay in processing the tenant rent decrease, the tenant rent decrease may be processed retroactive to the date the decrease should have been effective, and a supplemental payment would be issued to the owner.

### **ZERO PAY STATUS**

Participants in zero pay status will remain on the program for six months, eligible for reinstatement of benefits if their circumstances change. After six months, if the family continues to be ineligible for benefits, the family will be dropped from the program. The family may be transferred to another unit if it is determined the family will be eligible for assistance at another unit.

### **INTERIM CHANGES**

[24 CFR 982.516]

Program participants must report, in writing, all changes in household composition and changes in income or assets to the HACSD within fourteen days of the change. The family must obtain prior HACSD approval for all household additions except those due to birth, return of disabled or minor children to the household, adoption or court-awarded custody. Please refer to the chapter on subsidy standards for information on when a family may be allocated a larger voucher size. The owner must approve all additions to the household in writing.

### **PROCEDURES WHEN THE CHANGE IS REPORTED IN A TIMELY MANNER**

The HACSD will notify the family and the owner of any change in the housing assistance payment according to the following guidelines:

Increases in the Tenant Rent will be effective on the first of the month following a reasonable advance notice, unless the notification delay was the result of a family action or inaction.

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported, unless the delay was caused by family action or inaction. Also, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

The change is implemented based on documentation provided by the family.

#### **PROCEDURES WHEN CHANGE IS REPORTED IN AN UNTIMELY MANNER**

If the family does not report the change as described under timely reporting, the family will have caused an unreasonable delay in the interim reexamination processing, and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date it would have been effective, had it been reported in a timely manner.

Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

#### **PROCEDURES WHEN THE CHANGE IS PROCESSED BY THE HACSD IN AN UNTIMELY MANNER**

"Processed in a timely manner," means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date due to an HACSD action or inaction, the HACSD has processed the change in an untimely manner.

In this case, a family rent increase will be effective after the required reasonable advance notice, and after completion of processing by the HACSD.

If the change resulted in a family rent decrease, the rent decrease for the family will be calculated retroactively to the date it should have been effective, and the owner will be mailed a supplemental payment for that amount.

#### **REPORTING ADDITIONS TO OWNER AND THE HACSD**

Reporting changes in household composition to the HACSD is both a HUD and a HACSD requirement.



The HACSD will deny a family's request to add additional family members who are prohibited from program participation for the time period indicated elsewhere in this Plan. In instances where a participation prohibition period is not indicated elsewhere in this Plan, the prohibition period is three years, unless the HACSD determines extenuating factors. Participation is denied to:

Persons who have been evicted from public housing.

Persons who have previously violated a family obligation listed in 24 CFR 982.51 of the HUD regulations.

Persons who were part of a family whose assistance was terminated under the certificate or voucher program for program violations. (Determination will be made on a case-by-case basis depending on the termination reason.)

Persons who commit, or have committed, drug-related criminal activity or violent criminal activity as outlined in this plan.

Persons who commit, or have committed, fraud, bribery or any other corrupt or criminal act in connection with any federal housing program, or state or local fraud involving public funds.

Persons who currently owe rent or other amounts to the HACSD, or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Persons who have engaged in, or threatened, abusive or violent behavior toward HACSD personnel.

Persons who have been involved in any criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

Persons who have been involved in any criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA.

Persons who will overcrowd the unit.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who have engaged in threatened abusive or violent behavior toward PHA personnel.

The income of the additional member will be included in the family income as applicable under the HUD regulations once the person is approved by the HACSD and the owner. The HACSD will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

If the family does not obtain prior written approval from the HACSD, with the exceptions noted elsewhere, any person the family has permitted to move in will be considered an unauthorized household member.

Families are required to report any additions to the household in writing to the HACSD within fourteen days of the move-in date for birth, adoption, minor or disabled children returning to the family, or court awarded custody.

A full interim reexamination will be conducted for any additions to the household, except for additions due to birth.

In addition, the family must obtain prior written approval from the owner for additions to the household other than by birth, adoption, a minor or disabled child returning to the family, or court awarded custody. However, the owner may disapprove any additions to the household unless to do so would be a violation of law.

#### **REPORTING ABSENCES TO THE HACSD**

Reporting changes in household composition is both a HUD and a HACSD requirement.

If a family member leaves the household, the family must report this change to the HACSD, in writing, within fourteen days of the change, and certify as to whether the member is temporarily absent or permanently absent.

The HACSD will conduct an interim evaluation for changes that affect the total tenant payment in accordance with the interim policy.

When the family notifies the HACSD, it must furnish the following information:

The date the family member moved out.

The new address, if known, of the family member.

A statement as to whether the family member is temporarily or permanently absent.

### **OTHER INTERIM REPORTING ISSUES**

An interim reexamination does not affect the date of the annual recertification.

An interim reexamination will be scheduled for families with zero income every 90 days.

Any changes reported by participants, other than those listed in this section, will be noted in the file by the staff person, or will be indicated by documents provided by the family, but will not be processed between regularly scheduled annual recertifications.

### **INTERIM REEXAMINATION POLICY**

#### **Increases in Income**

The HACSD will usually not conduct interim reexaminations when families have an increase in income; however, families are required to report all changes in income/assets within 14 days. The HACSD may, at its discretion, conduct interim reexaminations in the following instances:

When the family had previously been receiving little or minimal income.

When it appears the family is manipulating the program by a pattern of reducing income just prior to the annual recertification and increasing its income right after.

When it is discovered a family has a welfare sanction and its rent should not have been reduced.

#### **Decreases in Income**

Participants are required to submit a written request for review of their rent calculations because of a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions, before the HACSD will process the reduction in family rent, providing appropriate documentation of the change is submitted.

## **HACSD Errors**

If the HACSD makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease would have been effective if calculated correctly. In this instance, a supplemental payment will be issued to the owner.

## **HOUSEHOLD COMPOSITION CHANGES THAT REQUIRE A CHANGE IN THE SUBSIDY STANDARDS**

Additions to the household are not allowed if the unit will be overcrowded. If an addition occurs due to birth, addition of disabled or minor children of the assisted family, adoption, or court awarded custody and the unit is overcrowded, the family must give notice to move or the assistance must be terminated within 60 days of notification of the change in household composition. The family must be assisted in transferring to an adequately sized unit. The subsidy standard will not be increased upon return of an adult previously in the household.

For a reduction in the subsidy standards, the family must be given notice as of the later of the next annual reexamination or sixty days from the date of the notice. If an error is discovered that resulted in subsidy standards not being reduced at the appropriate time, the subsidy standards will be reduced with a 60-day notice.

## **NOTIFICATION OF RESULTS OF RECERTIFICATIONS/INTERIMS**

[HUD Notice PIH 98-6]

The HUD form 50058 will be completed and transmitted as required by HUD.

The notice of rent change is mailed to the owner and the tenant. The HACSD does not require signatures. If the family disagrees with the rent adjustment, it may request an informal hearing.

Chapter  
**12**

## **MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

[24 CFR 982.314, 982.353, 982.355(a)]

### **INTRODUCTION**

**H**UD regulations permit families to move with continued assistance to another unit within the HACSD jurisdiction, or to a unit outside of the HACSD jurisdiction under portability procedures. The regulations also allow the HACSD the discretion to develop policies to define any limitations or restrictions on moves. This chapter describes the procedures for moves within and outside the HACSD jurisdiction, and the policies for restrictions and limitations on moves.

### **ALLOWABLE MOVES**

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because the HACSD has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.

The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).

The family has given proper notice of lease termination (and if the family has a month-to-month rental agreement a right to terminate the lease on notice to owner).

The owner and tenant agree to early termination of tenancy by executing and returning a HACSD waiver form.

## **RESTRICTIONS ON MOVES**

[24 CFR 982.314, 982.552(a)]

Families will not be permitted to move within the HACSD jurisdiction during the initial term of the lease.

Families will not be permitted to move more than once in a twelve-month period, unless they can demonstrate a compelling reason for the move, such as a medical emergency or the landlord issuing a termination of tenancy notice.

Families will not be eligible to move with continued program participation if they are in zero pay status at the new unit.

The HACSD will deny the family permission to move if there is insufficient funding for continued assistance.

The HACSD will deny the family permission to move if:

The family has violated a family obligation.

The family owes the HACSD or another PHA money. The housing supervisor may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

The family is ineligible because of criminal history or criminal activities.

## **PROCEDURE FOR TRANSFERS**

[24 CFR 982.314]

### **ISSUANCE OF HOUSING CHOICE VOUCHER**

Subject to the restrictions on moves, if the family has not been recertified within the last 120 days as of the date of the new HAP contract, the HACSD will issue the voucher to move after conducting the recertification and verifying criminal history.

If the family does not locate a new unit, it may remain in the current unit if the owner allows the family to stay, the unit meets housing quality standards, and the family and owner submit a written confirmation to the HACSD.

When a family transfers to a new unit, the annual recertification date will be changed to coincide with the new lease date.

### **NOTICE REQUIREMENTS**

The initial briefing session will emphasize the family's responsibility to give the owner and the HACSD proper written notice of any intent to move.

The family must give the owner the legally required advance written notice of its intent to vacate, and must forward a copy to the HACSD at the same time.

### **TIME OF CONTRACT CHANGE**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move, except that there will be no overlapping assistance.

### **ASSISTANCE TERMINATION AND OVERLAPPING ASSISTANCE**

In a move, assistance stops at the old unit on the date the participant has notified the HACSD s/he will be vacating the unit, unless the participant and owner request an extension of the lease termination date in writing.

Unless the HACSD determines extenuating circumstances, assistance on the old and new units may not overlap more than seven days. The HACSD may never pay assistance on a unit beyond the end of the month the family moves.

### **PORTABILITY**

[24 CFR 982.353]

Portability applies to families moving out of or into the HACSD's jurisdiction within the United States and its territories.

### **OUTGOING PORTABILITY**

[24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to tenant-based voucher assistance outside the HACSD's jurisdiction, anywhere in the United States that has an administering PHA. When a family provides written request to move outside of the HACSD's jurisdiction, the request must specify the area to which the family wants to move, as well as the name and address of the appropriate PHA. Subsidy standards and income limits vary from PHA to PHA, and the HACSD will advise the family to contact the receiving PHA regarding its policies and procedures.

The HACSD will choose the receiving PHA in instances of more than one PHA in the area the family has chosen.

### **Restrictions on Portability**

#### **Applicants**

If neither the head nor spouse had a domicile (legal residence) in the HACSD's jurisdiction at the date of initial application for assistance, the family may not be

permitted to exercise portability upon initial issuance of a voucher, unless the HACSD approves the move.

For a portable family not yet receiving assistance in the HACSD's jurisdiction, the HACSD must determine whether the family is eligible for admission under the receiving PHA's program. In order to make this determination, HACSD will advise the family to contact the receiving PHA for income limit information.

### Participants

After an applicant has leased in the jurisdiction of the initial housing agency, s/he cannot exercise portability during the initial term of the lease, except in the following circumstances.

The receiving PHA and the HACSD agree to allow the move.

The family's move relates to an opportunity for education, job training or employment.

The HACSD will not permit families to exercise portability if:

The family is in violation of a family obligation.

The family owes money to any PHA.

The family is ineligible due to its criminal history.

The family has moved out of its assisted unit in violation of the lease.

If the receiving PHA denies a family's move into its jurisdiction, the PHA must offer the family an opportunity for an informal hearing, for participants, and informal review for new admissions, and submit its hearing/review determination to the HACSD with sixty days of the hearing/review decision.

### **INCOMING PORTABILITY**

[24 CFR 982.354, 982.355]

### **Absorption or Administration**

The HACSD will accept a family with a valid voucher from another jurisdiction, and administer or absorb the voucher. The family will be issued a "portable" voucher by the HACSD, if it is administering the voucher. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a RFTA for an eligible unit to the HACSD during the term of the voucher. The HACSD will grant extensions in accordance with this Administrative Plan. However, if the family



decides not to lease in the HACSD's jurisdiction, it must contact the initial PHA for an extension to the term of the voucher.

The HACSD may absorb incoming vouchers, if the initial PHA absorbs an equal number of the HACSD's outgoing vouchers or, absorb incoming vouchers, to further program goals, regulations, or rules.

When the HACSD does not absorb the incoming voucher, it will administer the initial PHA's voucher and the HACSD's policies will prevail.

For an admission to the program, a family must be income eligible in the area it initially receives assistance.

The HACSD will issue a "portability voucher" according to its own subsidy standards. The family may receive a smaller or larger voucher size, if the subsidy standards of the HACSD differ from those of the initial PHA.

### **Income and Total Tenant Payment of Incoming Portables**

[982.353(d)]

As the receiving PHA, the HACSD may conduct a recertification interview, but only verify information when the documents are missing, are over 120 days old, or if the family circumstances have changed. The HACSD will request all necessary third party verifications. In addition, the HACSD must determine the income eligibility for the 50% of area median income limit for families who had not received assistance in their original jurisdiction.

The HACSD interview will not cause a delay in the issuance of a voucher.

If the family's income calculates to a zero subsidy amount prior to lease-up, the HACSD will refuse to enter into a contract on behalf of the family. A notice of action and opportunity for an informal hearing/review will be issued.

### **Requests For Tenancy Approval**

When the family submits a RFTA, it will be processed using the HACSD's policies. If the family does not submit a RFTA, or does not execute a lease, the HACSD will notify the initial PHA within fourteen days after the voucher expiration date.

If the family leases successfully, the HACSD will notify the initial PHA within 30 days of lease-up, and the billing process will commence.

If the HACSD denies assistance to the family, it will notify the initial PHA within 30 days of the denial notice, or if the family requests an informal hearing/review, within 30 days after the hearing decision.

The HACSD will notify the family of its responsibility to contact the initial PHA, if the family wishes to move outside the HACSD jurisdiction under continued portability.

### **Regular Program Functions**

The HACSD will administer the family's assistance on behalf of the initial agency in accordance with its Plan and HUD regulations, including performing the following activities:

Annual reexaminations of family income, assets, and composition

Annual inspection of the unit

Interim examinations, as necessary

Family transfers from one unit to another, within the HACSD jurisdiction

### **Terminations**

The HACSD will notify the initial PHA in writing of any termination of assistance within fourteen days of the termination effective date. If an informal hearing/review is required and requested by the family, the HACSD will conduct the hearing/review using the regular hearing/review procedures in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims and for monitoring repayment. If the initial PHA notifies the HACSD that the family is in arrears, or the family has refused to sign a payment agreement, the HACSD will terminate assistance to the family, and conduct an informal hearing, if requested.

### **Required Documents**

The initial PHA must forward to the HACSD the documents listed on the HUD portability billing form.

### **Billing Procedures**

As receiving PHA, the HACSD will bill the initial PHA monthly for housing assistance payments, administrative fees, and special claims.

The HACSD will bill 100% of the housing assistance payment, 100% of special claims, and 80% of the administrative fee (at the initial PHA's rate) for each "portability" voucher leased on the first day of the month.

The HACSD will notify the initial PHA of changes in subsidy amounts, and will expect the initial PHA to notify the HACSD of changes in its administrative fee.

RESERVED

# Chapter 13

## PROGRAM REVIEW AND PROGRAM INTEGRITY

[24 CFR 792.101 to 792.204, 982.54]

### INTRODUCTION

The United States Department of Housing and Urban Development (HUD) conservatively estimates that 600 million dollars are paid annually to program participants who falsify, provide, or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that twelve percent (12%) of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

The HACSD is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families. The HACSD will take all steps necessary to prevent fraud, waste, and mismanagement, so that program resources are utilized judiciously.

This chapter outlines the HACSD's policies for the prevention, detection and investigation of program abuse and fraud. In addition, this chapter discusses quality control procedures taken to ensure the program is operated in conformance with the regulations, as well as industry standards.

### COMPLAINTS TO THE HACSD

The HACSD will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The HACSD may request complaints be submitted in writing. HQS complaints may be reported by telephone.

The HACSD hearing procedures are provided to families in the family handbook. The Family Handbook is presented to families at briefings, transfers, upon request, and frequently at recertifications.

## **CATEGORIES OF COMPLAINTS**

Complaints from families: A family disagrees with an action or inaction of the HACSD, or owner.

The housing specialist will make every effort to resolve complaints from families. If the complaints are not resolved, they will be referred to the housing supervisor. The housing supervisor will make every effort to resolve the complaints. If the complaints are not resolved, they will be referred to the program manager.

Complaints from owners: An owner disagrees with a family, or HACSD action or inaction.

The housing specialist will make every effort to resolve owner complaints. If the owner complaints are not resolved, they will be referred to the housing supervisor. The housing supervisor will make every effort to resolve the complaints. If the complaints are not resolved, they will be referred to the program manager.

Complaints from staff: A staff person reports an owner or family either violating or not complying with program rules.

The complaint will be referred to the housing supervisor.

Complaints from the general public: Someone from the public complains about staff, participants, owners, or other matters.

Complaints or referrals from persons in the community in regard to the HACSD, a family, or an owner will be referred to the housing supervisor. If the complaints are not resolved, they will be referred to the program manager.

Complaints from the press, politicians, supervisors or other high profile individuals

High profile complaints will be referred to the Program Manager.

## **CRITERIA FOR INVESTIGATION OF SUSPECTED PROGRAM ABUSE AND FRAUD**

The HACSD expects participating families to comply with HUD requirements, provisions of the Housing Choice Voucher, and other program rules. The HACSD staff will make every effort (formally and informally) to orient and educate all families to avoid unintentional violations. However, the HACSD has a responsibility to HUD, to the community, to the taxpayer, and to eligible families in need of housing assistance

to monitor participants and owners for compliance and, when indicators of possible abuse come to the HACSD's attention, to vigorously investigate such claims.

The HACSD will initiate an investigation of a participating family in the event of one or more of the following circumstances:

**Referrals, Complaints, or Tips.** The HACSD will follow up on written, telephoned, or in-person referrals from other agencies, companies or persons, which allege that a family is in non-compliance with the program, or otherwise violating family obligations or any other program rules. Such follow-up will be conducted providing the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

**Internal File Review.** A follow-up is made when the HACSD staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, the HACSD's knowledge of the family, or is contrary to statements made by the family.

**Verification of Documentation.** A follow-up is made if the HACSD receives independent verification or documentation, which conflicts with representations in the family's file (such as public record information, credit bureau reports, or reports from other agencies).

**Routine Program Review Activities.** The HACSD may routinely conduct criminal history verification on program participants on a regular basis.

If the investigation is beyond the scope of the housing specialist, a referral is given to the Program Review Division (Program Review).

## **PREVENTION OF PROGRAM ABUSE AND FRAUD**

The HACSD management and staff will employ various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. The HACSD policy objective is to minimize family and owner non-compliance by providing clear and concise program education to eliminate violations that occur as a result of a misunderstanding of the program rules and requirements.

**Participant Orientation Session.** All prospective program participants will attend a mandatory orientation session provided by HACSD staff either prior to, or upon issuance of, a voucher. At the conclusion of all program

orientation sessions, the family representative will be required to sign a confirmation that all rules and pertinent regulations were explained to them.

**Owner Orientation Session.** Owners may attend informational workshops held periodically to orient owners on program rules and requirements.

**Participant Counseling.** The HACSD will routinely provide information to participants, upon request, to clarify any confusion regarding program rules and requirements.

**Review and Explanation of Forms.** Staff will explain all required forms, upon request, and review the contents of all (re) certification documents prior to the participant signature to affirm that all information provided is true, complete, and correct.

**Use of Instructive Signs and Warnings.** Information may be posted in the HACSD common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

**Participant Certification.** All adult family representatives are required to complete and sign an eligibility declaration that discloses important eligibility information such as family members, income, assets, criminal history and other eligibility information.

#### **OTHER PROGRAM INTEGRITY ACTIVITIES**

All adults are required to sign an authorization for release of information

All adults are required to sign "An Important Points to Remember" listing of things they should know

Credit report and Department of Motor Vehicles (DMV) inquiries may be conducted

Family Handbook is given to all participant families

The Family Handbook advises the family of the HACSD policy of zero tolerance for property damage

#### **DETECTION OF PROGRAM ABUSE AND FRAUD**

The HACSD staff maintains a high level of awareness to indicators of possible abuse and fraud by assisted families.



### **QUALITY CONTROL FILE REVIEWS**

Prior to initial certification, and at the completion of annual recertifications, the minimum number of files required by SEMAP will be reviewed. Such reviews shall include, but are not limited to:

- Assurance that verification of all income and deductions is present
- Changes in reported social security numbers or dates of birth
- Authenticity of file documents
- Review of signatures for consistency with previously signed file documents
- Forms are correctly dated and signed
- Rent reasonableness documentation, if applicable
- Unit passed HQS inspections prior to execution of HAP contract

### **OBSERVATION**

The HACSD staff, including HQS inspectors, will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

- Observations will be documented in the family's file.
- Management and staff may review public record bulletins.

### **STATE WAGE DATA RECORDS**

Inquiries to state wage and employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made on a case-by-case basis, in order to detect unreported wages or unemployment compensation benefits.

### **CREDIT BUREAU INQUIRIES**

Credit bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

- At the time of final eligibility determination
- Upon transfer from one unit to another
- When a participant's expenditures exceed his/her reported income, and no plausible explanation is given as to how the participant is meeting his/her expenses

Upon allegations of unreported income, or the family living above its apparent means

Upon an inspection that indicates the family's unexplained acquisition of expensive items such as, furniture, electronics, vehicles, or boats

## **ALLEGATIONS OF PROGRAM ABUSE AND FRAUD**

The HACSD staff will encourage all participating families to report suspected abuse to the Program Review Division. All such referrals, as well as referrals from community members and other agencies, will be thoroughly investigated, documented, and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. Program Review will not follow up on vague or non-specific allegations. It will only review allegations that contain one or more independently verifiable facts.

### **FILE REVIEW**

An internal file review will be conducted to determine:

A program participant is involved and, if so, if the information reported has been previously disclosed by the family

The HACSD will then determine the appropriate authority to follow-up (e.g., police or social services). Any file documentation of past behavior, as well as corroborating complaints, will be evaluated.

### **CONCLUSION OF PRELIMINARY REVIEW**

If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the housing specialist will initiate an investigation to determine if the allegation is true or false.

## **INVESTIGATION OF ALLEGATIONS OF PROGRAM ABUSE AND FRAUD**

When the HACSD determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the executive director to monitor program compliance, will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the HACSD will secure the written authorization from the program participant for the release of information.

### **CREDIT BUREAU INQUIRIES**

In cases involving previously unreported income sources, a credit bureau inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

### **VERIFICATION OF CREDIT**

In cases where the financial activity conflicts with file data, a verification of credit form may be mailed to the creditor in order to determine the unreported income source

### **EMPLOYERS AND EX-EMPLOYERS**

Employers or ex-employers may be contacted to verify wages that may have not been previously disclosed or previously misreported.

### **NEIGHBORS/WITNESSES**

Neighbors and/or other witnesses may be interviewed regarding facts pertaining to the HACSD's review.

### **OTHER AGENCIES**

Investigators, caseworkers or representatives of other benefit agencies may be contacted.

### **PUBLIC RECORDS**

If relevant, the HACSD will review public records. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records, postal records, school records, or other types of records.

### **INTERVIEWS WITH HEAD OF HOUSEHOLD OR FAMILY MEMBERS**

The HACSD may discuss the allegation (or details thereof) with the head of household or family member by telephone, or by scheduling an appointment for the family to come to the HACSD office. The HACSD staff members will conduct interviews with a high standard of courtesy and professionalism. The HACSD staff members will, under no circumstances, use inflammatory language, accusations, or any unprofessional conduct or language in the course of doing business. If possible, more than one staff person will attend the interviews.

### **OVERPAYMENTS TO OWNERS**

When the landlord has been overpaid as a result of fraud, misrepresentation or violation of the HAP contract, the HACSD may terminate the HAP contract, and arrange for restitution to the HACSD and/or family, as appropriate.

The HACSD will attempt to recover overpayments resulting from landlord fraud or abuse. Payments due to the owner may be debited in order to repay the HACSD or the tenant, as applicable. A more thorough discussion of owner debts is found in Chapter 15.

In instances where it is found the family rented from a relative without the required HACSD permission, an overpayment will be collected from both the owner and the participant – each party responsible for repayment of 50% of the HAPs paid.

### **DOCUMENT AND/OR EVIDENCE HANDLING**

Documents and other evidence obtained by the HACSD during the course of an investigation will be considered "work products" and will be kept in the participant's file. The participant's file shall be kept in a secure location. The cases under review will not be discussed among HACSD staff members, unless they are involved in the process, or have information that may assist in the investigation.

### **CONCLUSION OF THE HACSD'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will place the findings in the participant's file. The findings in the participant's file will narrate if a violation has or has not occurred, or if the facts are inconclusive.

### **EVALUATION OF THE FINDINGS**

When it is determined that a program violation has occurred, the HACSD will review the facts to determine:

- The type of violation (procedural, non-compliance, fraud)

- Whether the violation was intentional or unintentional

- The amount of money (if any) owed by the family

- The family's eligibility for continued assistance

## **PROCEDURES FOR DOCUMENTED VIOLATIONS**

When a program violation has been documented, the HACSD will propose the most appropriate remedy based upon the type and severity of the violation.

### **PROCEDURAL NON-COMPLIANCE**

This category applies to a family "failure" to observe a procedure or requirement of the HACSD, but the family did not misrepresent a material fact, and there are no retroactive assistance payments owed by the family.

Examples of procedural non-compliance violations are:

Failure to appear at a pre-scheduled appointment

Failure to return verifications in the time period specified by the HACSD

Warning Notice to the Family. In such cases a notice may be sent to the family that contains the following:

A description of the non-compliance and the procedure, policy or obligations violated

The date by which the violation must be corrected

The action that will be taken by the HACSD, if the violations are not corrected by the deadline

The consequences of repeated (similar) violations.

**Overpaid Assistance**

When the family owes money to the HACSD for failure to report changes in income or assets, the HACSD will issue a notification of overpayment of assistance. This notice will contain the following:

A description of the violation and the date(s)

Any amounts owed to the HACSD

A fourteen-day response period

The right to disagree and to request an informal hearing with instructions for the request of such hearing

Participant Fails to Comply with the HACSD Notice. If the participant fails to comply with the HACSD notice, and a family obligation has been violated, the HACSD will initiate termination of assistance.

Participant Complies with the HACSD Notice. When a participant complies with the HACSD notice, the staff person responsible may meet with him/her, or telephone, to discuss and explain the family obligation or program rule that was violated. The staff person will narrate in the tenant record, and may ask the family to write a statement of understanding of the requirement that was violated for the family's file

## **INTENTIONAL MISREPRESENTATIONS**

When a participant falsifies, misstates, omits or otherwise misrepresents a material fact, the HACSD will evaluate whether or not:

The participant had knowledge that his/her actions were wrong, and

The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. The facts will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, briefing certifications, personal declaration, and other documents that reflect the participant's knowledge of program rules, are adequate to establish knowledge of wrongdoing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

An admission by the participant of the misrepresentation.

The act was done repeatedly.

A false name or social security number was used.

There were admissions to others of the illegal action or omission.

The participant omitted material facts, which were known to him/her (e.g., employment of self or other household member).

The participant falsified, forged or altered documents.

The participant uttered and certified to statements at an interim or annual (re)determination which were later independently verified to be false.

## **DISPOSITION OF CASES INVOLVING MISREPRESENTATIONS**

In all cases of misrepresentations involving efforts to recover monies owed, the HACSD may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Criminal Prosecution: If the HACSD has established criminal intent, and the case meets the criteria for prosecution, the HACSD will:

Refer the case to the local state or district attorney, notify HUD, and terminate rental assistance.

Administrative Remedies: The HACSD will:

Terminate assistance and demand payment of restitution in full.

**THE CASE CONFERENCE FOR SERIOUS VIOLATIONS AND MISREPRESENTATIONS**

When the HACSD has established that material misrepresentation(s) have occurred, a case conference may be scheduled with the family representative and the HACSD staff person who is most knowledgeable about the circumstances of the case. This conference may be held if there is some indication of extenuating circumstances, or upon family request.

This conference may take place prior to any proposed action by the HACSD. The purpose of such conference is to review the information and evidence obtained by the HACSD with the participant, and to provide the participant an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the HACSD.

A secondary purpose of the participant conference is to assist the HACSD in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the HACSD may consider:

The duration of the violation and number of false statements

An admission by the participant of the misrepresentations

Repetition of the misrepresentation

The family's ability to understand the rules

The family's willingness to cooperate, and to accept responsibility for its actions

The amount of money involved

The family's past history

Whether or not criminal intent has been established

The number of false statements

**Notification to Participant of Proposed Action**

The HACSD will notify the family of the proposed action no later than 30 days after the case conference, if one is held.

RESERVED



# TERMINATIONS, DENIALS, HEARINGS AND REVIEWS

[24 CFR 982.552, 982.553, 982.311, 982.314]

## INTRODUCTION

**T**he Section 8 Program operates through a relationship between the public housing agency, the owner and the participant. These parties enter into agreements with each other in the form of the lease between the owner and the participant, the contract between the owner and the public housing agency, and the Housing Choice Voucher between the public housing agency and the participant. Each party to these agreements is obligated to comply with certain requirements of the program and the agreements may be terminated under program guidelines. This chapter describes the process for termination or denial of assistance, as well as the process for termination of the HAP Contract and the policies and procedures for such terminations.

The HACSD may deny or terminate assistance for a family because of the family's action or failure to act. The HACSD will provide families with a written description of the family obligations under the program, the grounds under which the HACSD can deny or terminate assistance, and the HACSD's informal hearing or informal review procedures. For more information family eligibility, please refer to chapter three.

The informal hearing or informal review requirements defined in HUD regulations apply to participant or applicant families who disagree with an action, decision, or inaction of the HACSD. This chapter describes the policies, procedures and standards used when families disagree with a HACSD decision. It is the policy of the HACSD to ensure that all families have the benefit of all protections due to them under HUD rules and regulations governing the Section 8 program.

## **DENIAL OR TERMINATION OF PROGRAM PARTICIPATION**

### **LEASE VIOLATIONS**

The following criteria will be used to decide if serious or repeated violations of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violations of the lease.

If the family violates any family obligation listed in the lease.

If the owner notifies the family of termination of tenancy or assistance for serious or repeated lease violations, the family moves from the unit prior to the completion of court action, and the HACSD determines that the cause is a serious or repeated violation of the lease.

If the owner notifies the family of termination of tenancy for serious or repeated lease violations, the family moves from the unit prior to the initiation of court action, and police reports, neighborhood complaints, pictures, a HACSD inspection, or other verified third party information confirms serious or repeated lease violations.

Nonpayment of rent is always considered a serious violation of the lease.

The participant cannot withhold rent under the program for uninhabitability without permission of the HACSD, as the HACSD must be notified along with the owner of the problems in the unit, the owner must be given an opportunity to remedy the problems, and the HACSD must be given the opportunity to conduct a special inspection to determine if the unit fails HQS. If the participant fails to pay rent without permission of the HACSD, the participant's non-payment of rent will be considered a serious lease violation.

If the family moves during the term of the lease without the owner's permission.

The participant cannot move during to term of the lease, even if the participant claims uninhabitability, as the HACSD must be notified along with the owner of the problems in the unit, the owner must be given an opportunity to remedy the problems, and the HACSD must be given the opportunity to conduct a special inspection to determine if the unit fails HQS. If the

participant abandons the unit during the term of the lease without permission of the HACSD, the participant's action will be considered a serious lease violation.

### **NOTIFICATION OF EVICTION**

If the family requests assistance to move, but has not notified the HACSD of an eviction within 14 days of receiving the notice of lease termination, the move will be denied.

### **ZERO (\$0) ASSISTANCE TENANCIES**

[24 CFR 982.455 (a)]

The HACSD has no liability for unpaid rent or damages, and the family may remain in the unit at zero assistance for up to six months after the last HAP payment. If the family is still in the unit after six months, the program participation will end. If, within the six-month timeframe, an owner rent increase or a decrease in the total tenant payment causes the family to be eligible for a housing assistance payment, the HACSD will resume assistance payments for the family upon documentation of the change.

The family may not move to another unit during the six months, and continue program participation, unless the family is eligible for assistance at the new location. If the family moves, and is not eligible for assistance, the family will be issued a termination of participation notice, and the opportunity for an informal review. The HACSD may not enter into a HAP Contract for a zero assistance tenancy.

### **OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

[24 CFR 982.551, 982.552(c)]

If the family has misrepresented information so that an overpayment of assistance was disbursed, the HACSD may choose to allow the family to continue participation, if the family executes a repayment agreement for overpaid assistance, and makes payments in accordance with the agreement. The determination to not terminate family participation depends on the seriousness of the misrepresentation and the family's history of complying with the program and the lease.

### **MISREPRESENTATION IN COLLUSION WITH OWNER**

[24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud, or is involved in an illegal scheme with the owner, the HACSD will deny or terminate assistance. The HACSD may consider all extenuating circumstances in making its determination.

## **MISSED APPOINTMENTS AND DEADLINES**

[24 CFR 982.551, 982.552 (c)]

It is a family obligation to supply information, documentation, and certification as needed for the HACSD to fulfill its responsibilities. The HACSD schedules appointments and sets deadlines in order to obtain the required information. The family obligations require that the families allow the HACSD to inspect the unit with a reasonable advance notice.

The HACSD may issue a notice to deny or terminate assistance, when an applicant or participant fails to keep an appointment, supply information by the deadline, or fails to allow a scheduled HACSD inspection.

The family will be informed of the requirement to keep appointments.

Appointments or deadlines may be required in the following circumstances:

- Eligibility for admissions
- Verification procedures
- Voucher issuance and briefings
- Housing quality standards and inspections
- Recertifications
- Appeals

The following documented extenuating circumstances may be considered for missed appointments or deadlines:

- Medical emergency
- Incarceration
- Family emergency

## **Procedure when Appointments are missed or Information not provided**

In most instances, the family will be given two opportunities before a notice of termination of assistance or denial of participation is issued. The family must call to reschedule a missed appointment, and if not, a termination of assistance or denial of participation may be issued. The HACSD may rescind the notice, if the family then calls to reschedule the appointment. The HACSD will not reschedule a missed appointment more than once, unless it determines extenuating circumstances.

The HACSD may rescind a notice, if the family offers to correct a breach in program requirements within the 14-day informal hearing/review request deadline. The notice may not be rescinded, if the family has a history of non-compliance.

### **PROCEDURES FOR NON-CITIZENS**

[24 CFR 5.514, 5.516, 5.518]

#### **Denial or Termination due to Ineligible Immigrant Status**

Applicant or participant families with neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The HACSD must offer the family an opportunity for a hearing.

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

#### **False or Incomplete Information**

When the HACSD has clear, concrete, or substantial documentation, such as a permanent resident card or information from another agency, that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted, and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify his/her citizenship, the HACSD will offer an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend his/her status. The HACSD will then verify eligible status, deny, terminate, or prorate as applicable.

The HACSD may deny or terminate the family's assistance, if it is apparent that the applicant or participant deliberately provided incomplete, false, or incorrect information.

#### **Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status, and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the HACSD, either after the INS appeal or in lieu of the appeal with the INS.

After the HACSD has made a determination of ineligibility, the family will be notified of the determination, the reasons and informed of the option for prorated assistance (if applicable).

### **NOTICE OF TERMINATION OF ASSISTANCE**

Upon HACSD termination of assistance to the family, the HACSD must give the family a written notice that states:

The reason(s) for the proposed termination

The effective date of the proposed termination,

The family's right to request an informal hearing to be held before termination of assistance

The deadline for the family's informal hearing request

If the HACSD proposes to terminate assistance for criminal activity based on a criminal record, the HACSD will allow the family to make an appointment to review a copy of the criminal record.

The HACSD will provide written notice of the contract termination to the owner to coincide with the termination of assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

### **REASONABLE ACCOMMODATION**

[24 CFR 982.552, 982.553]

If denial of admission, or termination of assistance, is based on behavior due to a disability, the HACSD will delay the denial or termination in order to determine if the problem could be corrected by reasonable accommodation. For example, a visually impaired person fails to return information because the request for information was in writing. The HACSD makes a reasonable accommodation, upon request, to call the person to tell him/her of the information that is needed.

### **FORMAT FOR DENIAL/TERMINATION NOTICES**

Applicants and participants will be notified of denial or termination of assistance in writing on HACSD approved notices and advised they will have 14 days from the date of the notice to request an informal review or hearing. The notices will contain a full explanation of the reason(s) for termination/denial, including a full description of crimes or actions of the family, and the sections of the Code of Federal Regulations that provide authority for the denial or termination of assistance. A request form will be provided for applicants or participants to request informal reviews or hearings.

### **REQUIRED EVIDENCE**

*Preponderance of evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

*Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

If the HACSD determines, based on a preponderance of the evidence, that a household member, or guest, has engaged in prohibited criminal activity, regardless of whether the household member or guest has been arrested or convicted for the activity, the HACSD will terminate assistance.

The HACSD will pursue fact-finding efforts as needed to obtain credible evidence.

## **TERMINATION OF CONTRACT OR LEASE**

[24 CFR 982.311, 982.314]

The term of the HAP contract between the HACSD and the owner is the same as the term of the lease. The HACSD or the owner may terminate the contract, or the contract terminates upon owner or tenant termination of the lease.

The HACSD will terminate payments, on behalf of the family to the owner, upon contract termination. The owner must reimburse the HACSD for any subsidies paid after the contract termination.

If the family continues to occupy the unit after the contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit, as long as the assistance does not overlap more than seven days, unless the HACSD determines extenuating circumstances.

### **TERMINATION BY THE FAMILY: MOVES**

[24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

### **TERMINATION OF TENANCY BY THE OWNER: EVICTIONS**

[24 CFR 982.310, 982.455]

The owner is required by law, and under the lease, to provide a proper termination notice.

During the term of the lease, the owner may not terminate the tenancy, except for the grounds stated in the HUD regulations.

During the initial term of the lease the owner may terminate the lease for:

Serious or repeated violations of the lease, including but not limited to, failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease

Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises, or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises

Other good cause

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do (see CFR 982.310).

The HACSD will not be involved in termination of the lease, nor will advise the landlord or the tenant regarding the legal process. The HACSD staff will immediately issue transfer papers to the participant and act to expedite the transfer process.

### **Evidence of Criminal Activity**

The owner may terminate family tenancy and evict by judicial action for criminal activity by a covered person, if the owner determines s/he has engaged in criminal activity:

Regardless of arrest or conviction



Without satisfying the standard proof used for criminal conviction

### **Release of Sex Offender Registration Information or Criminal History Information to the Owner**

The owner may request that the HACSD obtain and review criminal or sex offender registration records for grounds to deny a tenant application, or evict a tenant. The HACSD will charge the owner a fee based on the costs incurred by the HACSD, including the costs charged by the law enforcement agency, the HACSD staff time and administrative costs. The owner may not charge the tenant for this fee.

The HACSD **must not** release any criminal information or sex offender information to the owner, but a housing supervisor will review the information, and if no information relevant to application or eviction is found, will notify the owner. If information relevant to the application or eviction is found, the housing supervisor will present his/her findings in writing to the program manager who will authorize the findings and sign the letter issued to the owner. The letter will not specify the criminal or sex offender history, but will merely state that there may be cause for denial or eviction of the tenant. If the owner sends documentation of needing specific information for an eviction, the program manager must approve the release of any information in accordance with the regulations. [24 CFR 5.903, 24 CFR 5.905]

### **Termination of Tenancy Decision**

The owner can decide whether to take an action against a tenant, if the law and the regulations permit. The circumstances to be considered by the owner include:

- The seriousness of the offense

- The effect on the community

- The extent of participation by household members

- The demand for assisted housing by families who will adhere to responsibilities

- The extent the tenant has taken personal responsibility

- The extent the tenant has taken all reasonable steps to mitigate the offending action(s)

- The effect on the integrity of the program

### **Exclusion of Culpable Household Member**

The owner may require the tenant to remove a household member, in order to continue to reside in the assisted unit.

### **Consideration of Rehabilitation**

When determining whether to terminate the tenancy for illegal drug use, or alcohol abuse, the owner may consider whether the member:

Is no longer engaged in the offending activities

Has successfully completed a supervised drug or alcohol rehabilitation program

Has otherwise been rehabilitated.

The owner may require the tenant to submit evidence of rehabilitation.

Actions of termination must be consistent with fair housing and equal opportunity laws as stated in 24 CFR 5.105.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under state or local law to commence an eviction action.

The owner should specify lease violations and cite some, or all of the ways the tenant has violated the lease, as documentation for the HACSD's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, the HACSD must continue to make housing assistance payments to the owner until the tenant has moved, the owner has obtained a court judgment, or otherwise evicted the tenant. By endorsing the monthly check from the HACSD, the owner certifies that the tenant is still in the unit, the rent is reasonable, and s/he is in compliance with the contract. Rental assistance cannot be paid if the unit has an HQS violation that is the owner's responsibility.

If the action is finalized in court, the owner will be asked to provide the HACSD with the documentation, including notice of the lockout date.

The HACSD may issue a new voucher to the family and process its transfer, if the family is found to have been in compliance with the lease, and all program requirements.

## **TERMINATION OF THE CONTRACT BY THE HACSD**

[24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The HAP contract terminates when the lease terminates, the HACSD terminates program assistance for the family, or when the owner has breached the HAP contract.

The HACSD may also terminate the contract if:

Funding is no longer available under the ACC

The contract will terminate automatically 180 days after the last housing assistance payment to the owner.

### **Notice of Termination**

In most instances, the HACSD will terminate the contract the end of the month following the month the owner is issued a termination notice. However, the contract will terminate the end of the month the family vacates the unit and may terminate the end of the month that serious, life-threatening conditions are noted.

The HACSD will forward transfer papers to an eligible family with its termination of contract notice.

## **INFORMAL MEETINGS AND REVIEWS**

### **PREFERENCE DENIALS**

When the HACSD denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with the HACSD staff to discuss the reasons for the denial and to dispute the HACSD's decision.

The person who conducts the meeting will be:

The admissions supervisor or designee

An employee of the HACSD, who is at or above the level of Housing Specialist II, but not the employee who made the decision

### **INFORMAL REVIEW PROCEDURES**

[24 CFR 982.54(d)(12), 982.554]

Informal reviews, with one exception, are provided for applicants who are denied assistance before the effective date of the HAP contract. Informal hearings are provided to applicants denied for citizenship or eligible immigrant status.

Upon HACSD determination of applicant ineligibility, the family must be notified in writing. The notice must contain:

The reason(s) the family is ineligible

The procedure for requesting a review, if the applicant does not agree with the decision

The deadline to request a review

When denying admission for criminal activity as shown by a criminal record, the HACSD will allow the family to review the criminal record at the HACSD office upon family request.

The HACSD must provide applicants the opportunity for an informal review when they are denied for the following reasons:

Qualification for preference

Listing on the HACSD's waiting list

Issuance of a voucher

Participation in the program

Assistance under the portability procedures

Informal reviews for applicants are not required for established policies and procedures, and HACSD determinations such as:

Discretionary administrative determinations by the HACSD

General policy issues or class grievances

A determination of the family unit size under the HACSD subsidy standards

Refusal to extend or suspend a voucher

Refusal to grant approval of the tenancy

Determination that unit is not in compliance with HQS

Determination that unit is not in accordance with HQS due to family size or composition

### **Notification of Review**

The HACSD will ensure applicants receive all the rights afforded by laws and regulations. When the HACSD receives a request for an informal review, the informal review shall be scheduled within 30 days of receipt. The informal review may be conducted by telephone, or in person. The applicants will be advised of the time and date of the informal review, and the right to submit oral or written objections to the HACSD decision.

### **Procedure for Informal Review**

A request for an informal review must be received in writing by the close of the business day, no later than fourteen days from the date of the HACSD's notification of denial of admission. The informal review will be scheduled within 30 days of the date the request is received.

Those involved in the decision under review, or their subordinates, may not conduct the informal review.

The review may be conducted by:

- A staff person of Housing Specialist II or above

- An individual from outside the HACSD

The applicant will be given the option of presenting oral or written objections to the decision. The HACSD and the family may present evidence and witnesses. The family may, at its own expense, be accompanied by an attorney or other representative.

The review may be conducted by mail and/or telephone if acceptable to both parties.

A notice of the review findings will be provided in writing to the applicant within twenty days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation and a copy of the final decision will be retained in the family's file.

### **INFORMAL HEARINGS**

[24 CFR 982.555(a-f), 982.54(d)(13)]

The HACSD must notify participants, and applicants (for citizenship or eligible immigration issues), in writing, upon a decision regarding eligibility and/or the

amount of assistance. The HACSD will give the family prompt notice of such determinations, which will include:

- The proposed action or decision of the HACSD

- The date the proposed action or decision will take place

- The family right to an explanation of the HACSD decision

- The procedures to request a hearing, if the family disputes the action or decision;

- The deadline to request the hearing

- Where the hearing request must be submitted

- A copy of the HACSD's hearing procedures

When terminating assistance for criminal activity as shown by a criminal record, the HACSD will allow the participant to come into the office to view the alleged offender copies of the relevant criminal record(s). In addition, the termination notice will provide specific information on the criminal history discovered.

The HACSD must provide participants the opportunity for an informal hearing for decisions related to any of the following:

- Determination of the family's annual or adjusted income

- The computation of the housing assistance payment

- The utility allowance schedule used

- Family unit size determination under HACSD subsidy standards

- Termination of assistance for any reason

Informal hearings are not required for established policies and procedures and HACSD determinations such as:

- Discretionary administrative determinations by the HACSD

- General policy issues or class grievances

- Establishment of the schedule of utility allowances for families on the program

- Determination not to approve an extension or suspension of a voucher term

Determination not to approve a unit or lease

Determination of owner violation of HQS (HACSD must provide a hearing for termination of assistance for a family breach of HQS)

Determination that the unit is not in accordance with HQS because of the family size

Determination to exercise, or not exercise, any right or remedy against the owner under a HAP contract

### **NOTIFICATION OF HEARING**

It is the HACSD's objective to resolve disputes at the lowest level possible to avoid the most severe remedies. However, if this is not possible, the HACSD will ensure that applicants and participants receive all of the protections and rights afforded by the law and the regulations.

When the HACSD receives a request for an informal hearing, a hearing will be scheduled within 30 days. The notification of hearing will contain:

The date and time of the hearing

The location of the hearing

The family's right to bring evidence, witnesses, legal or other representation at the family's expense

The family's right to view any documents or evidence in the possession of the HACSD upon which the proposed action was based

A notice to the family stating the HACSD requires copies of any documents or evidence the family will use at the hearing

### **PROCEDURE FOR INFORMAL HEARING**

A request for an informal hearing must be received in writing by the close of the business day, no later than fourteen days from the date of the notification of denial or termination of assistance. The informal hearing will be scheduled within 30 days of the date the request is received.

After a hearing date is scheduled, the family may request to reschedule only upon showing "good cause," defined as: an unavoidable conflict that seriously affects the health, safety or welfare of the family.

Families may, during or before the hearing:

Present written or oral objections to the HACSD's determination.

At least seven (7) days from the date of the Notice of Informal hearing, examine, and request copies at the family's expense, any unprivileged documents in the file that are directly relevant, as determined by the HACSD, to the issues to be considered at the hearing which form the basis for the HACSD's action, and all documents submitted to the hearing officer.

Present any information or witnesses pertinent to the issue of the hearing.

Request that HACSD staff be available to answer questions pertinent to the case.

Be represented by legal counsel, advocate, or other designated representative at his or her own expense.

In addition to other rights contained in this chapter, the HACSD has a right to:

Present evidence and any information pertinent to the issue of the hearing

Be notified if the family intends to be represented by legal counsel, advocate, or another party

Examine and copy any documents to be used by the family at least seven days prior to the hearing

Have its attorney present

Have staff persons and other witnesses familiar with the case present.

With the exception of informal hearings regarding disputes concerning rent calculation and subsidy standard determinations, the informal hearing officer will be appointed by the HACSD to provide the service. Informal hearings regarding rent calculation and subsidy standard determinations, due to the complexity of the regulations, will be heard by an employee of the HACSD who was not involved in making the original determination, but who is familiar with the relevant regulations. This employee must be classified a housing supervisor or higher.

For all other hearing matters, other than for rent calculation or subsidy standard determinations, the HACSD may appoint hearing officers who are:

Professional mediators or arbitrators

Managers from other departments in the County of San Diego



Managers from other PHAs

The HACSD management

Hearing officers will never be anyone who was involved in making the original determination.

The informal hearing shall only concern relevant issues. Evidence presented will be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Documents not provided to both parties in advance may not be admitted without permission of the opposing party. "Documents" includes records or regulations.

The family may request an audio recording of the informal hearing, if desired, within 90 days of the hearing.

The hearing officer may request additional information, or may reconvene the hearing for a later date before reaching a decision.

If the family misses an appointment or deadline ordered by the hearing officer, the action of the HACSD shall take effect, and another hearing will not be granted.

The hearing officer will determine, based on the evidence and testimony, if the action, inaction, or decision of the HACSD is in accordance with HUD regulations and this Plan. Factual determinations will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings provided in writing to the HACSD and the family within twenty days shall include:

- A clear summary of the decision and reasons for the decision

- The effective date of the decision

- A statement that the tenant may seek judicial review by filing a petition with the San Diego Superior Court pursuant to section 1094.6 of the California Code of Civil Procedure. The petition must be filed within ninety (90) days of the date of this decision.

The HACSD is not bound by hearing decisions that:

- Do not require an informal hearing

- Conflict or contradict HUD requirements or regulations

Exceed the hearing officer's authority

The HACSD shall, within 30 days, send a letter to the participant, if it determines it is not bound by the hearing officer's determination. The letter shall include the HACSD decision.

All requests for an informal hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

## **HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"**

[24 CFR Part 5, Subpart E]

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the HACSD hearing is pending, but assistance to an applicant may be delayed pending the HACSD hearing.

### **INS DETERMINATION OF INELIGIBILITY**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the HACSD must notify the applicant or participant, within ten days of his/her right to appeal to the INS within thirty days, or to request an informal hearing with the HACSD either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, it must give the HACSD a copy of the appeal and proof of mailing, or the HACSD may proceed to deny or terminate. The time period to request an appeal may be extended by the HACSD for good cause.

The request for a HACSD hearing must be made within fourteen days of the date of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, the HACSD will:

Deny the applicant family

Defer termination of a participating family that qualifies for deferral

Terminate the participant, if the family does not qualify for deferral

If there are eligible members in the family, the HACSD will offer to prorate assistance or give the family the option to remove the ineligible members.

Other matters related to eligible citizen/immigrant status are:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide documentation or certifications, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral, may not request a hearing, since they had an opportunity for a hearing prior to the deferral of termination.

Participants whose assistance is prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and total tenant payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

## **MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES**

[24 CFR 982.204, 982.552(c)]

When applicants are denied placement on the waiting list, or the HACSD is terminating assistance, the family will be informed that the presence of a disability may be considered as a mitigating circumstance during the informal review or informal hearing process. However, the presence of a disability is never considered as a mitigating circumstance for violations of the regulations, criminal activities, violations of the lease, or for violations of the requirements of agency.

RESERVED

## OWNER OR FAMILY DEBTS TO THE HACSD

[24 CFR 982.552]

### INTRODUCTION

This chapter describes the HACSD's policies for the recovery of monies overpaid to families and owners. In addition, this chapter outlines the collection methods and guidelines for the handling and collection of different types of debts. The HACSD's policy is to communicate program guidelines to owners and families so as to minimize HACSD overpayments. The HACSD clearly documents, in the tenant file, the amount and nature of owner or family debts, as well as the method of calculation. Owners and families may receive copies of all relevant documentation regarding their debts, upon request.

The HACSD will make every effort to collect delinquent family or owner debts. The HACSD will use a variety of collection tools to recover debts including, but not limited to:

- Request for lump sum payments
- Small claim or civil court actions
- Payment agreements
- Termination of family program participation
- Reductions in HAP to owner
- Abatements
- Collection agencies
- Referrals to the County Department of Revenue and Recovery

## **PAYMENT AGREEMENTS FOR PARTICIPATING FAMILIES**

[24 CFR 982.552 (c)(v-ii, 982.551)]

A payment agreement or repayment agreement, as used in this Plan, is a document entered into between the HACSD and a person who owes a debt to the HACSD. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the HACSD upon default of the agreement.

If the HACSD offers a payment agreement, it will determine the terms. The HACSD may not offer a payment agreement in all circumstances.

The maximum length of time the HACSD will enter into a payment agreement with a family may be as little as 120 days, but a longer period of up to one year may be approved when family circumstances make it difficult to honor a repayment agreement of a shorter duration. A longer period may be approved by the Department Director.

## **PAYMENT AGREEMENTS FOR FAMILIES NO LONGER ON THE PROGRAM**

A family whose program participation has been terminated will be offered a repayment agreement. The repayment agreement will ask the family to repay its debt within 120 days, but a longer period of up to one year may be approved, upon request, when family circumstances make it difficult to honor a repayment agreement of a shorter duration. A longer period may be approved by the Department Director.

A calculation of the estimated participant debt may be included on the notice of termination of assistance, whenever possible.

## **DEBTS OWED FOR CLAIMS**

[24 CFR 792.103, 982.552 (c)(v-vii)]

### **DELINQUENT PAYMENTS**

A payment will be considered to be in arrears if:

The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's payment agreement is in arrears, and the family has not contacted or made arrangements with the HACSD, the HACSD will:

Require the family to pay the balance in full

Pursue civil collection of the balance due

Terminate the housing assistance

A transferring family, delinquent on its payment agreement, is required to pay the balance in full prior to the issuance of a voucher.

## **DEBTS DUE TO MISREPRESENTATIONS / NON-REPORTING OF INFORMATION**

[24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act, or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

### **FAMILY ERROR/LATE REPORTING**

Families who owe money to the HACSD due to the family's failure to report increases in income or fail to report any information which will cause an incorrect HAP to be paid to the owner, will be required to repay in accordance with the guidelines in the payment agreement section of this chapter.

### **PROGRAM FRAUD**

If a family owes money as a result of program fraud, the case may be referred for prosecution. The family's program participation will be terminated.

### **RENTING FROM A RELATIVE**

In instances where it is found the family rented from a relative without the required HACSD permission, an overpayment will be collected from both the owner and the participant – each party responsible for repayment of 50% of the HAPs paid.

## **DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP**

The HACSD's minimum rent is zero; therefore, this section is not applicable, unless the minimum rent is increased.

If the family owes the HACSD money for rent arrears incurred during the minimum rent period, the HACSD will calculate the total amount owed and divide it by three to arrive at a reasonable payback amount that the family will be required to pay to the

HACSD monthly. The family will be required to pay the increased amount until the arrears are paid in full.

If the family goes into default on the repayment agreement for back rent incurred during a minimum rent period, the HACSD will reevaluate the family's financial situation to determine if the family has the ability to pay the increased rent amount. If not, the existing repayment agreement will be restructured.

## **GUIDELINES FOR PAYMENT AGREEMENTS**

[24 CFR 982.552(c)(v-vii)]

Payment agreements will be executed between the HACSD and the head of household and/or spouse.

Monthly payments may be decreased in cases of family hardship, and if requested with reasonable notice from the family, upon verification of the hardship, and the approval of the program manager.

A family current on its repayments may transfer. No transfer will be approved until a delinquent debt is paid in full.

If the family already has a payment agreement in place and incurs an additional debt to the HACSD:

The HACSD will not enter into more than one payment agreement with the family. The family may be allowed 30 days to pay the second debt in full.

## **OWNER DEBTS TO THE HACSD**

[24 CFR 982.453(b)]

If the HACSD determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the HACSD may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract.

When the landlord has been overpaid as a result of fraud, misrepresentation or violation of the HAP contract, the HACSD may terminate the HAP contract, and arrange for restitution to the HACSD and/or family, as appropriate.

In instances where it is found the family rented from a relative without the required HACSD permission, an overpayment will be collected from both the owner and the participant – each party responsible for repayment of 50% of the HAPs paid.



If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the HACSD will seek one or more of the following remedies:

Require the owner to pay the amount in full within 30 days

Pursue collections through collection agencies and/or the local court system

Restrict the owner from future participation

## **WRITING OFF DEBTS**

The director may write off uncollectable debts. In determining whether a debt is uncollectable, the lack of success in collecting, along with the following factors will be considered:

The debtor's whereabouts is unknown

The debt is more than one year old

The debtor is judgment proof

The debtor is deceased

The amount is less than \$250.00

The writing off of a debt does not remove the debtor's responsibility to repay, or the HACSD's ability to collect the monies owed. The HACSD will still deny program admission to an applicant who has failed to repay monies owed.

RESERVED

## **SPECIAL HOUSING TYPES, HOMEOWNERSHIP, PROJECT-BASED and SPECIAL CLAIMS**

[24 CFR 982.601, 24 CFR 982.625]

### **INTRODUCTION**

**T**he Section 8 regulations allow assistance to be paid on behalf of special housing types. It is the intent of the HACSD to provide as great an opportunity as possible for affordable housing and wherever possible will allow assistance to be paid on behalf of permissible special housing types. This chapter describes the special housing types recognized by the HACSD and how these special housing types are handled. In addition, this chapter explains how the HACSD handles the homeownership, and project-based assistance options of the Housing Choice Voucher Program, as well as special claims allowed under its special programs.

The HACSD will not set aside any program funding for any special housing type. A family may choose to rent housing that qualifies as a special housing type, or to rent other eligible housing in accordance with requirements of the program.

### **SPECIAL HOUSING TYPES TO EXPAND AFFORDABLE HOUSING OPPORTUNITIES**

The HACSD will consider requests for special housing types on a case-by-case basis. The HACSD is open to special housing types for all families, if their use will expand affordable housing opportunities. In all cases, the HACSD will authorize the use of special housing types as a reasonable accommodation to those with a disability, so that the program is readily accessible and usable.

The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

## **MAINSTREAM VOUCHERS**

The Mainstream Voucher Program involves the administration of Housing Choice Vouchers designated for families with persons with disabilities. In all other respects, these vouchers are administered in conformance with this Plan. The participants for this program will be selected off of the Section 8 waiting list and eligibility is contingent on at least one household member being a person with disabilities.

## **SINGLE ROOM OCCUPANCY**

[24 CFR 982.602]

The HACSD will use a separate lease and housing assistance payment contract for each assisted person residing in a Single Room Occupancy (SRO) unit. [24 CFR 982.603]

## **SRO RENT AND HOUSING ASSISTANCE PAYMENT**

[24 CFR 982.604]

### **Payment Standards**

The HACSD SRO payment standard is seventy five percent (75%) of the zero bedroom payment standard schedule. For a person residing in an exception area, the payment standard is 75 percent of the HUD-approved zero bedroom exception payment standard amount. For all SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

### **Utility Allowance**

The utility allowance for an assisted person residing in SRO housing is seventy five percent (75%) of the zero bedroom utility allowance.

### **Housing Quality Standards**

The HACSD will ensure that all SRO units approved for the program are in compliance with all of the HQS for SROs as regulated in 24 CFR 982.605.

### **CONGREGATE HOUSING**

[24 CFR 982.606]

Only elderly person(s), or a person(s) with disabilities, may reside in a congregate housing unit. Other families are not eligible for this special housing type.

The HACSD may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The HACSD will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **CONGREGATE HOUSING LEASE AND HAP CONTRACT**

[24 CFR 982.607]

Congregate housing requires a separate lease and HAP contract for each assisted family.

The payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the HACSD payment standard schedule, unless the participant has a live-in aide.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

### **GROUP HOMES**

[24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the state, or the state's licensing department. The license or certification must specify that the group home is for elderly persons or persons with disabilities.

Elderly person(s) or a person(s) with disabilities may reside in a state-approved group home. If approved by the HACSD, a live-in aide may reside with a person with disabilities. Other persons are not eligible to reside in the group homes.

The HACSD must approve a live-in aide, if needed as a reasonable accommodation, so that the program is readily accessible to and usable by persons with disabilities. Except for live-in aides, all residents of a group home must be elderly persons or persons with disabilities.

The HACSD will not approve assistance for a person to live in a group home if documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aides.

### **GROUP HOME LEASE**

[24 CFR 982.611]

A separate HAP contract and lease is required for each assisted person living in a group home. For a group home, the term "pro-rata portion" means the ratio derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any HACSD-approved live-in aide.

### **GROUP HOME RENT**

[24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with CFR 982.507. In determining reasonable rent, the HACSD will consider whether sanitary facilities, and facilities for food preparation and service, are common or private.

### **MAXIMUM SUBSIDY**

The family unit size is usually one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size, or the pro-rata portion of the payment standard amount on the HACSD payment standard schedule for the group home size.

### **UTILITY ALLOWANCE**

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

### **SHARED HOUSING**

[24 CFR 982.615]

### **OCCUPANCY**

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The HACSD may approve a live-in aide to reside with a family in order to care for a person with a disability. The HACSD must approve a live-in aide, if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit, but may never be related to the family by blood or marriage even for reasonable accommodation.

A resident owner may enter into a HAP contract with the HACSD. However, housing assistance may not be paid on behalf of an owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

### **RENT AND HAP CONTRACT**

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five-bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the standard Section 8 regulations in this Plan.

### **MAXIMUM SUBSIDY**

For a family that resides in a shared housing unit, the payment standard is the lower of the payment standard amount on the HACSD payment standard schedule for the family unit size, or the pro-rata portion of the payment standard amount on the HACSD payment standard for the shared housing unit size.

If the HACSD approves a live in aide, the live in aide will be counted in determining the family unit size. The live in aide may **never** be the owner of the assisted unit.

### **UTILITY ALLOWANCE**

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all shared housing units approved for the program are in compliance with all of the housing quality standards for shared housing as regulated in 24 CFR 982.618.

### **COOPERATIVE HOUSING**

[24 CFR 982.619]

The HACSD will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The HACSD will not approve assistance for a family in cooperative housing until the HACSD has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with the Section 8 regulations in this Plan. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge similarly to regular Section 8 rent adjustments described in the rent reasonableness section of this Plan.



The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The housing assistance payment will be determined in accordance with the standard Section 8 guidelines in this Plan.

The HACSD may approve a live-in aide to reside with the family to care for a person with disabilities. The HACSD will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. If the HACSD approves a live-in aide, the live-in aide will be counted when determining the family unit size.

### **HOUSING QUALITY STANDARDS**

The HACSD will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the "Housing Quality Standards and Inspections" chapter, and regulated by 24 CFR 982.401.

### **MANUFACTURED HOMES**

[24 CFR 982.620]

The HACSD will permit a family to lease a manufactured home and space with assistance under the program just as a house or apartment may be leased. The HACSD will provide assistance for a family that owns the manufactured home and leases only the space.

The HACSD may approve a live-in aide to reside with a family to care for a person with disabilities. The HACSD will approve a live-in aide if needed as a reasonable accommodation so the program is accessible to and usable by persons with disabilities. If the HACSD approves a live-in aide, the live-in aide must be counted when determining the family unit size. A live-in aide may **never** be an owner of the manufactured home or the park.

### **HOUSING QUALITY STANDARDS**

[24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the Housing Quality Standards and Inspections section of this Plan and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.

The HACSD has a HUD waiver of the tie-down requirement for manufactured homes.

## **MANUFACTURED HOME SPACE RENTAL**

[24 CFR 982.622]

Rent to owner for a manufactured home space will include payment for maintenance services the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

## **REASONABLE RENT**

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the HACSD.

The HACSD will not approve a lease for a manufactured home space until the HACSD has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HACSD will re-determine that the rent is reasonable.

The HACSD will determine whether the rent to the owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The HACSD will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease. The HACSD will evaluate reasonable rent annually whether the rent has increased or not.

By accepting each monthly housing assistance payment from the HACSD, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park, or elsewhere. If requested by the HACSD, the owner must provide the HACSD information on rents for other manufactured home spaces.

## **PAYMENT STANDARD**

There is a separate fair market rent (FMR) for a family renting a manufactured home space. The payment standard, based on the FMR, is used to calculate the monthly housing assistance payment for a family. While the FMR for a manufactured home space rent is generally 40 percent of the published two-bedroom FMR, historically, the San Diego County region has been awarded a higher FMR for space rent than the standard formula.

## **SUBSIDY CALCULATION**

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of:

The payment standard minus the total tenant payment; or

The gross rent for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the HACSD:

Rent to owner for the manufactured home space;

Owner maintenance and management charges for the space;

The utility allowance for tenant paid utilities.

### **UTILITY ALLOWANCE SCHEDULE FOR MANUFACTURED HOME SPACE RENTAL**

[24 CFR 982.624]

The HACSD will establish utility allowances for manufactured home space rental. For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system. The HACSD has adopted separate utility allowances for water, sewer and trash, but other utilities are the same for manufactured homes as for other housing types of the same size.

### **HOMEOWNERSHIP**

[24 CFR 982.625]

#### **GENERAL**

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. The HACSD has adopted the homeownership option although it may not be readily workable given the high cost of housing within the HACSD jurisdiction. The homeownership program will be administered as follows:

The HACSD must approve a live in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

The HACSD may limit homeownership to a maximum of ten families at any given time.

The HACSD may provide homeownership assistance in the form of monthly payments, or as a downpayment assistance grant. The HACSD will offer the form of assistance it determines to be the most beneficial to the family. A family may receive only one form of homeownership assistance.

A family that includes a person who was an adult member of a family that previously received either form of homeownership assistance may not receive the other form of assistance from the HACSD.

The HACSD will offer homeownership assistance only to those families who qualify under the guidelines and policies in this chapter and the regulations.

### **ELIGIBILITY REQUIREMENTS**

[24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

The family must be eligible for the Housing Choice Voucher program.

The family must qualify as a first-time homeowner, or may be a cooperative member.

The family must meet the federal minimum income requirement. The family must have a gross annual income equal to the federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. Unless the family is elderly or disabled, income from welfare assistance will not be counted toward this requirement.

The family must meet the federal minimum employment requirement.

At least one adult family member who will own the home must be currently employed full time and must have been continuously employed for one year prior to homeownership assistance.

HUD regulations define "full time employment" as not less than an average of 30 hours per week.

A family member will be considered to have been continuously employed even if that family member has experienced a break in employment, provided that the break in employment:

Did not occur within the last nine-month period immediately prior to the family's request to utilize the homeownership option

Did not last more than 21 days

Has been the only break in employment within the past twelve calendar months.

The federal minimum employment requirement does not apply to elderly or disabled families who must meet the minimum income requirement of the current monthly Supplemental Security Income benefit multiplied by 12.

Welfare assistance payments for adult family members who will own the home will be included in the determination of the minimum income requirement.

Any family member who has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future homeownership assistance.

The HACSD will impose the following additional initial requirements:

The family has no family-caused violations of HUD's housing quality standards within the last year.

The family is not within the initial term of the lease.

The family does not owe money to the HACSD.

The family has not committed any serious or repeated violations of a HACSD-assisted lease within five years.

The family has not had any arrests for violent or drug-related criminal activities over the last five years.

### **RANKING PREFERENCES**

Applications will be offered to eligible candidates in the following priority order with date and time of application the deciding factor among priority groups:

- (1) Section 8 program participants living in a unit that is undergoing a condominium conversion who meet the Homeownership Program requirements is eligible for participation.
- (2) Portability Homeownership participants who were found eligible for the Section 8 Homeownership program at the initial agency and the initial agency certifies they are porting as Homeownership participants and not porting for rental assistance.
- (3) A family with a person with disabilities that has been pre-qualified or pre-approved for a loan and identified a property in the jurisdiction of the HACSD that the family has sufficient resources to purchase.

- (4) Family Self Sufficiency (FSS) program participants with escrow accounts who have successfully participated in the FSS program for at least one year. FSS participants are eligible provided they have not yet received full payout from the FSS escrow account at the time they completed the Qualification Questionnaire and found eligible for placement on the preliminary waiting list. Candidates who receive top ranking will be those who have the largest amount of money to apply to downpayment and closing costs, and then by those who have the highest annual income.
- (5) Housing Choice Voucher program participants who will graduate from a training or educational course within the next six months and expect their annual earnings to increase within the next year. Candidates who receive top ranking will be those who have the largest amount of money to apply to downpayment and closing costs, and then by those who have the highest annual income.
- (6) Other Housing Choice Voucher program participants who are found to qualify for the purchase of a residence.

#### **HOMEOWNERSHIP COUNSELING REQUIREMENTS**

[24 CFR 982.630]

When the family has been determined eligible, it must attend and complete homeownership counseling sessions. HACSD staff or another counseling service will hold the counseling sessions. Such counseling shall be consistent with HUD-approved housing counseling.

The following topics will be included in the homeownership counseling sessions:

- Home maintenance (including care of the grounds)
- Budgeting and money management
- Credit counseling
- How to negotiate the purchase price of a home
- How to obtain homeownership financing and loan approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing
- How to find a home, including information about homeownership opportunities, schools, and transportation in the HACSD jurisdiction
- The advantages to purchasing a home in an area that does not have a high concentration of low-income families, and how to locate homes in such areas
- How to identify and avoid loans with oppressive terms and conditions

## **ELIGIBLE UNITS**

[24 CFR 982.628]

The unit must meet all of the following requirements:

The unit must meet HUD's "Eligible Housing" requirements. The unit may not be any of the following:

A public housing or Indian housing unit

A unit receiving Section 8 project-based assistance

A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services

A college or other school dormitory

A penal, reformatory, medical, mental, or similar public or private institutions.

A manufactured home in a park.

The unit must be existing or under construction at the time the family enters into a contract of sale.

The unit is a one-unit property, or a single dwelling unit (including a manufactured home) in a cooperative or condominium.

The unit may be a home where the family will not own fee title to the real property (such as a manufactured home), if the home has a permanent foundation and the family has the right to occupy the site for at least 40 years.

The unit has been inspected by the HACSD and by an independent inspector designated by the family.

The unit meets HQS.

The HACSD must not approve the seller of the unit, if the HACSD has been informed that the seller is debarred, suspended, or subject to a limited denial of participation. The HACSD may disapprove the seller for any reason provided for disapproval of an owner in the voucher program.

## **HACSD SEARCH AND PURCHASE REQUIREMENTS**

[24 CFR 982.629]

The HACSD has established the maximum time that will be allowed for a family to locate and purchase a home. The HACSD may, at its discretion, allow a reasonable extension of the maximum time, if requested writing with justification.

The family's deadline date for locating a home to purchase will be 120 calendar days from the date the family's eligibility for the homeownership option is determined.

The family must obtain financing for the home within 60 calendar days of the date the home was located.

The family must purchase the home within 240 calendar days of the date the home was located

The HACSD will not require periodic reports on the family's progress in finding and purchasing a home.

If the family is unable to purchase a home within 240 days from the date the family's eligibility was determined, the HACSD will place the family's name on the voucher waiting list. The HACSD may extend the deadlines for locating and purchasing a home upon request

## **INSPECTION AND CONTRACT**

[24 CFR 982.631]

The unit must meet HQS, and must also be inspected by an independent professional inspector selected and paid by the family.

The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

- Foundation and structure

- Housing interior and exterior

- Roofing

- Plumbing, electrical and heating systems

The independent inspector must not be a HACSD employee or contractor. The HACSD will not require the family to use an independent inspector selected by the



HACSD, but the inspector selected must hold credentials required by the lending industry.

Copies of the independent inspection report will be provided to the family and the HACSD. Based on the information in this report, the family and the HACSD will determine whether any pre-purchase repairs are necessary.

The HACSD may disapprove the unit for homeownership assistance based on information in the report.

The family must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to the HACSD. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also:

State the purchaser is not obligated to buy the unit unless the inspection is satisfactory

State the purchaser is not obligated to pay for necessary repairs

Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation

## **FINANCING**

[24 CFR 982.632]

The family is responsible for securing financing. The HACSD has established financing requirements, listed below, and may disapprove proposed financing if the HACSD determines that the debt is unaffordable.

The HACSD may, on a case-by-case basis, prohibit the following forms of financing:

Balloon payment mortgages

Variable interest rate loans

Adjustable loans

The HACSD requires a minimum cash down payment of one percent (1%) of the purchase price to be paid from the family's own resources. The total down payment must be at least three percent (3%) of the purchase price.

Closing costs must be reasonable when compared to the standard industry practices of major reputable lenders backed by FannieMae or FreddieMac.

## **DOWNPAYMENT ASSISTANCE GRANTS**

[24 CFR 982.643]

*The HACSD may not offer the downpayment assistance grant option until HUD publishes a notice in the Federal Register announcing that appropriated funds are available.*

The HACSD may provide the alternate mutually exclusive option of a single downpayment assistance grant for an eligible homeownership participant. The family that is given this option is no longer eligible for assistance once this option is utilized.

Most of the regulations governing monthly homeownership assistance apply to downpayment assistance grants. However, families receiving these grants are not subject to the regulations concerning continued assistance, family obligations, the maximum term of assistance, amount and distribution of payments, or moves with continued assistance.

Eligibility for downpayment assistance is limited to current participants in the voucher program. The maximum downpayment assistance grant is the HACSD's payment standard minus the TTP multiplied by 12.

Downpayment assistance must be applied to the downpayment for the purchase of the home. The HACSD may allow the grant to be applied to reasonable and customary closing costs as defined by the HACSD and based on standard industry lending practices. The closing costs on an FHA loan are subject to FHA requirements.

The downpayment assistance grant may be applied to the downpayment for the home and the following closing costs:

- Loan origination fees

- Credit report fees

- Escrow fees

- Title insurance fees

- Recording fees

- Appraisal reports

The downpayment assistance grant shall be paid at the closing of a purchase of a home.

For each downpayment assistance grant, HUD will pay the HACSD a one-time administrative fee equal to six months of ongoing regular administrative fees under the voucher program.

A family that had received a downpayment assistance grant may apply to the waiting list and receive tenant-based rental assistance, in accordance with program requirements and PHA policies. However, the HACSD may not commence tenant-based rental assistance so long as any member of the family owns any title or other interest in the home purchased with homeownership assistance. Further, eighteen months must have passed since the family's receipt of the downpayment assistance grant.

### **CONTINUED ASSISTANCE**

[24 CFR 982.633]

Homeownership assistance will only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out.

The family must comply with the following obligations:

The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.

The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to CFR 982.551 (h) and (i).

The family must supply information to the HACSD or HUD as specified in CFR 982.551(b). The family must further supply any information required by the HACSD or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.

The family must notify the HACSD before moving out of the home.

The family must notify the HACSD if the family defaults on the mortgage used to purchase the home.

No family member may have any ownership interest in any other residential property.

The subsidy standards are “locked in” at the time of home purchase and will not be increased or decreased upon a change in household size or composition.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

### **MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE**

[24 CFR 982.634]

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

Fifteen-years, if the initial mortgage term is 20 years or longer, or

Ten-years in all other cases.

The elderly exception only applies if the family is qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family qualifies as disabled.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least six months of homeownership assistance after the maximum term becomes applicable.

If the family receives homeownership assistance for different homes, or from different PHAs, the maximum term limitations apply.

### **HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES**

[24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the HACSD will use the same payment standard schedule, payment standard amounts, and subsidy standards as for its Section 8 Rental Assistance Program.

The HACSD will pay the homeownership assistance payment directly to the lender.

Some homeownership expenses are allowances or standards determined by the HACSD in accordance with HUD regulations. These allowances are used in

determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses include:

- Principal and interest on mortgage debt

- Mortgage insurance premium

- Taxes and insurance

- The HACSD utility allowance used for the voucher program

If the home is a cooperative or condominium, expenses also include operating expenses or maintenance fees assessed by the homeowners' association.

The HACSD will not include allowances for maintenance or major repairs and replacements.

### **PORTABILITY**

[24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and this Plan, the family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families.

The receiving PHA may absorb the family into its voucher program, or bill the initial PHA. The receiving PHA arranges for housing counseling and the receiving PHA's homeownership policies apply.

The HACSD will accept incoming portables into its Homeownership Program so long as they are identified as Homeownership participants by the initial PHA and they are porting for the sole purpose of home purchase.

### **MOVING WITH CONTINUED ASSISTANCE**

[24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The HACSD will deny permission to move with continued rental or homeownership assistance, if the HACSD determines that it does not have sufficient funding to provide continued assistance.

The HACSD will require the family to complete additional homeownership counseling prior to moving to a new unit with continued assistance under the homeownership option.

### **DENIAL OR TERMINATION OF ASSISTANCE**

[24 CFR 982.638]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program contained in this Plan. However, the provisions of CFR 982.551 (c) through (j) are not applicable to homeownership. The provisions not applicable are:

- (c) HQS Breach caused by the family
- (d) Allowing PHA inspection
- (e) Violation of the Lease
- (f) Family notice of move or lease termination
- (g) Owner eviction notice
- (h) Use and occupancy of the unit
- (i) Absence from unit
- (j) Interest in unit

The HACSD will terminate homeownership assistance if the family is dispossessed from the home due to a judgment or order of foreclosure.

The HACSD will permit such a family to move with continued voucher rental assistance. However, rental assistance will be denied if the family defaulted on an FHA-insured mortgage, and the HACSD will not permit such a family to move with voucher rental assistance if the family fails to demonstrate that:

The family conveyed title to the home as required by HUD, and

The family moved within the period required by HUD.

The HACSD will terminate homeownership assistance if the family violates any of the family obligations contained in this section, this Plan, or the regulations.

The HACSD will terminate homeownership assistance if the family violates any of the following family obligations:

Transfer or conveyance of ownership of the home

Providing requested information to the HACSD or HUD

Notifying the HACSD before moving out of the home

### **RECAPTURE OF HOMEOWNERSHIP ASSISTANCE**

There will be no recapture of homeownership assistance.

## **PROJECT-BASED HOUSING CHOICE VOUCHERS**

[24 CFR 983]

### **GENERAL PROVISIONS**

The project-based component of the Housing Choice Voucher Program allows rental assistance to be attached to a specific unit and/or project instead of to a particular eligible assisted family. The project may be owned by any individual, corporation, trust, partnership, non-profit entity, as well as by the Housing Authority of the County of San Diego (HACSD), excluding those sanctioned from participation.

The Section 8 Project-Based Housing Choice Voucher Program of the HACSD may allocate up to 250 Housing Choice Vouchers (approximately 2 percent of the Housing Choice Voucher Program). These vouchers may be used in up to 100 percent of any given project that services elderly or disabled and up to 25 percent of mixed-family projects with more than four dwelling units and up to 100 percent of the units in projects where there are a maximum of four dwelling units per building.

Eligible applicants for the Section 8 Project-Based Housing Choice Voucher Program may offer, for a term of up to ten years, either existing projects, projects to be rehabilitated, or projects to be constructed, with preference given, first, to existing projects, then, to projects to be rehabilitated.

HACSD projects may consist of following types of residences: apartments, condominiums, group homes, or houses. Ineligible projects include the following types of residences: shared housing, manufactured housing, nursing homes, or convalescent centers. Projects must be located in the HACSD jurisdiction and must be located in areas of poverty rates of less than 20%. The HACSD jurisdiction does not include the cities of San Diego, National City, Oceanside, Carlsbad or Encinitas as well as any areas outside San Diego County.

### **BACKGROUND**

San Diego County Section 8 Housing Choice Voucher holders have encountered a number of obstacles in their search for rental housing that qualifies for tenant-based rental assistance. The rental market, for several years, has reacted to the economic

laws of supply and demand to the detriment of renters. For some time, supply has not kept up with demand, resulting in low vacancy rates and inflating rents. Due to these factors, landlords are less and less willing to participate in a program that assists low-income households, particularly when many program participants have a history of delinquent bills and evictions. After all, when a landlord looks at two applications, one that reflects a negative history, and the other a positive history (e.g., credit, rental or employment), the landlord will usually choose the latter.

The HACSD has found that many of those with a less than perfect credit and rental history never use the vouchers that are issued to them. This failure to assist those who need help the most has resulted in both a loss of time and effort by the HACSD, and the anger and frustration of those unsuccessful in utilizing their vouchers. In order to improve the success rate of those least likely to be successful in a tenant-based rental assistance program, the HACSD has determined it may be necessary to allocate its vouchers to projects-based assistance.

### **PROJECT SELECTION PROCESS**

The HACSD may advertise to accept applications from owners of rental housing developments who are interested in receiving project-based Section 8 vouchers for at least 25 percent for mixed family developments and up to 100 percent of the units in elderly and/or disabled developments. This federal Section 8 housing subsidy program will attach rental assistance directly to a specific unit or project for a term of up to ten years.

The highest priority will be given to proposals with existing housing and those willing to commit to a ten-year contract. In addition, the projects must be located in areas of under 20% poverty rate. Finally, projects must be located within the jurisdiction of the Housing Authority of the County of San Diego and cannot be located in the cities of San Diego, National City, Oceanside, Encinitas, and Carlsbad.

### **Application Requirements**

Narrative written response to the evaluation criteria

Description per unit of unit rent, type, size, age, condition, amenities, and the utilities, services and appliances included in the rent.

Comparable rent information for at least three comparable unassisted units.

Gross rents must be rent reasonable and not exceed 110 percent of the applicable published area Fair Market Rents.



Applications will be evaluated, based on responsiveness to the following criteria:

Site and design of existing project. Is the site and design of the project adequate and suitable for the number of units, and is the location of the project accessible to public and private social, recreational, educational, commercial, and health facilities and services, including employment and public transportation?

Extent to which the project contributes to the geographic distribution of affordable housing throughout the County of San Diego, promotes de-concentration of poverty, and furthers fair housing objectives.

Priority will be given to existing units that are attractive, in good condition and exceed housing quality standards.

Prior experience of the applicant in managing housing special needs households.

Only vacant units are eligible for the program.

## **PROGRAM ADMINISTRATION**

### **Inspection of the Projects and Units**

Project must be inspected for conformance with Section 8 housing quality standards (HQS) prior to the execution of the contract with the project owner or designee.

A copy of an inspection by a certified independent inspector done within the previous three months must be provided to the HACSD prior to execution of the contract.

Corrections to HACSD identified deficiencies including those noted on either the housing quality standards or the independent inspection must be completed prior to execution of the contract.

Individual units must be inspected prior to approval of a tenant lease and the commencement of project-based assistance for that unit.

A random inspection of at least ten percent of the units must be inspected annually.

The project and/or individual units are subject to special inspections for quality control purposes, or in response to a request and/or complaint

### **Maintenance of projects**

Project must be maintained in conformance with Section 8 housing quality standards (HQS).

Occupants of assisted units may be required to make repairs to correct violations in HQS that were caused by tenant abuse or neglect.

Project must be in compliance with all relevant federal, State and local laws, as well as all zoning and other regulatory requirements.

Taxes, fees, assessments, insurance, mortgages, or any other debts related to the projects must be kept current.

The project must be maintained in accordance with the provisions of the contract.

Project owners must take prompt action against residents engaging in illegal activities on the premises.

The Contract will be a HUD standard contract, if available. If not available, the contract will be based on contracts currently in use by other public housing agencies, and must include the following:

- The contract must state the remedies for non-compliance with the contract.

- The contract must state the term.

- The contract must contain provisions for termination by either party.

- The contract must allow for termination by the HACSD if funding becomes unavailable.

- The contract must state the duties and responsibilities of all parties.

- The contract must state the owner may request a rent adjustment once a year unless extraordinary additional expenses warrant a special rent adjustment.

In addition, the contract may have a provision for contract extensions.

### **Waiting List**

No separate waiting list will be maintained for project-based assistance initially.

The HACSD may determine, at a later time, a need for separate waiting lists. In that case, all those on the regular Section 8 waiting list will be notified and given the opportunity to place their names on the project-based waiting lists.

Families will be selected off the waiting list in accordance with HACSD-established selection preferences.

Families selected off the waiting list will be processed for eligibility in conformance with the regulations and the HACSD Section 8 Administrative Plan.

Families must meet income targeting guidelines in-place at the time of selection off the waiting list.

Families denied admission to the project will be returned to the waiting list, if eligible, with the appropriate selection preferences and original date and time of application.

### **Vacancies**

Projects may be eligible for up to sixty days vacancy loss, upon request, providing all appropriate measures are taken to fill the vacancies.

The HACSD may reduce the number of units under the contract if the units remain vacant for 120 days.

### **Assistance**

Assistance will be paid on behalf of eligible families in eligible project-based units. Assistance will be the difference between 30% of the family's monthly-adjusted income and the lower of either the gross rent or the applicable payment standard.

### **Initial, Annual and Ongoing Activities**

#### **All Families:**

Annual eligibility determination of all families in units receiving project-based assistance.

Annual review of progress families are achieving in meeting educational, job training and/or employment goals established at the time of initial eligibility.

Annual random inspections of at least ten percent of the project-based units.

All activities, unless indicated otherwise, or superseded by the regulations, will be in conformance with the Section 8 Administrative Plan.

Families may request tenant-based Housing Choice Vouchers after one year. At that time, the next available tenant-based Housing Choice Vouchers or other assistance, such as HOME tenant-based rental assistance, will be offered to eligible families.

Rent adjustments to the owner may be processed once a year provided the new rent is rent reasonable and the owner gives at least a 60-day advance notice to the tenant(s) and the HACSD.

No special rent adjustments will be allowed.

## **SPECIAL CLAIMS**

Some HACSD programs, such as Moderate Rehabilitation (Mod Rehab), may in some instances allow owners to make "special claims" for damages, unpaid rent, and vacancy loss. Except for project-based assistance, the Housing Choice Voucher Program does not have a "special claims" provision.

Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The HACSD establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, the HACSD will ascertain whether or not the family gave proper notice of its intent to move. The file will also be reviewed to verify owner compliance at the time the contract was terminated.

The HACSD will pay properly filed claims to the owner as a function of the contract, but the tenant is ultimately responsible to reimburse the HACSD for claims paid to the owner.

## **UNPAID RENT**

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP contract.

Separate agreements are not considered a tenant obligation under the lease and the HACSD will not reimburse the owner for any claims under these agreements.

## **DAMAGES**

The owner or his authorized agent must be present during the move-out inspection, and only damages claimed by the owner are reimbursable.

Actual bills for materials and labor and a copy of the cancelled checks or other receipts documenting payment must be provided to document claims.

Invoices or bills from individuals providing labor must include their name, address and telephone number.

The landlord may not bill him/herself for labor since that is not considered by the HACSD to be an actual cost. However, the actual cost of the owner's employee's labor, such as the resident manager, to make repairs may be included.

### **VACANCY LOSS**

In some special programs, vacancy loss is paid if the move was in violation of the notice requirements in the lease, or the result of an eviction. However, project-based Housing Choice Vouchers have vacancy loss provisions unique to the individual contracts with the owners.

In order to claim vacancy loss, the unit must be available for lease and the landlord must:

- Notify the HACSD within 48 hours excluding weekends and holidays upon learning of the vacancy, or prospective vacancy, and

- Pursue all possible activities to fill the vacancy, including, but not limited to:

- Contacting applicants on the owner's waiting list, if any,

- Seeking eligible applicants by listing the unit with the HACSD,

- Advertising the availability of the unit, and

- Not rejecting potentially eligible applicants except for good cause.

In the event that a unit becomes vacant because of the death of the tenant, the HACSD will permit the owner to keep the HAP for the month in which the tenant died.

If the tenant moves *after* the date given on their notice of intent to vacate, the landlord may claim vacancy loss by providing acceptable documentation that there was a bona fide prospective tenant to whom the unit could have been rented.

To ensure valid claim processing, the HACSD will conduct a thorough move-in inspection noting "conditions" as well as HQS deficiencies, take pictures of questionable items, and send a report of all items to the owner and tenant.

### **MOVE-OUT AND CLOSE-OUT INSPECTIONS**

The Housing Choice Voucher Program has no damage claim provision.

For older voucher contracts and other special programs that have a damage claim provision, the owner must notify the HACSD of the move-out and request an inspection within 48 hours of learning. Otherwise, the owner cannot submit a claim for damages. If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

The owner and tenant will be notified of the date and time of the inspection. If the owner or his authorized agent is not present, the move-out inspection will not be rescheduled.

The HACSD will not conduct a move-out inspection upon a tenant's request, if the owner does not also request an inspection.

A damage claim will not be approved *unless* the move-out inspection is requested and completed prior to any work being done.

In the event that the HACSD is unable to inspect within five days, the owner will be permitted to use date-stamped photographs to substantiate the claim.

### **PROCESSING CLAIMS**

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum-security deposit, which the owner could have collected under the program rules. If the maximum allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts that the family owes under the lease, the owner may request reimbursement from the HACSD up to the limits for each program.

If the owner claims vacancy loss, the security deposit that s/he collected or could have collected will be deducted from the vacancy loss claim.

The HACSD reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of amount payable. The family is informed that a claim is pending (a notice is sent to last known address.) The notification will state the preliminarily determined amount, the type of claim, and describe the procedure for contesting the claim.

The HACSD will offer the family fourteen days to contest the claim. If the family disputes the claim, the HACSD will schedule an informal meeting with the owner and tenant in order to resolve the differences.

If the tenant fails to attend the meeting, the HACSD will proceed with its original determination.

Meetings will not be rescheduled if neither the owner, nor the tenant attends.

Meetings will not be rescheduled if either the owner or the tenant fails to attend.

After a determination has been made, the HACSD will notify the family in writing of the decision. If it has been determined that the family owes money, the HACSD will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse the HACSD as required.

#### **OTHER REQUIREMENTS FOR CLAIMS PROCESSING**

The HACSD will require proof that the owner has complied with state and local laws applicable to security deposits before making payment on any claim.

All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.

Costs of filing eviction to remove the tenant or any other legal fees may not be reimbursed.

No claims will be paid for a unit that is vacant as the result of the landlord voluntarily moving a family to another unit owned by the same landlord.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within 30 days of the date the owner learned of the move-out.

RESERVED



# GLOSSARY

## ACRONYMS USED IN SUBSIDIZED HOUSING

|                 |  |
|-----------------|--|
| <b>ACC</b>      | Annual Contributions Contract  |
| <b>BR</b>       | Bedroom  |
| <b>CDBG</b>     | Community Development Block Grant  |
| <b>CFR</b>      | Code of Federal Regulations. Commonly referred to as "the regulations." The CFR is the compilation of Federal rules first published in the Federal Register to define and implement a statute. |
| <b>CPI</b>      | Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.   |
| <b>ELI</b>      | Extremely low income   |
| <b>FDIC</b>     | Federal Deposit Insurance Corporation  |
| <b>FHA</b>      | Federal Housing Administration   |
| <b>FICA</b>     | Federal Insurance Contributions Act - Social Security taxes  |
| <b>FmHA</b>     | Farmers Home Administration  |
| <b>FMR</b>      | Fair Market Rent   |
| <b>FY</b>       | Fiscal Year  |
| <b>FYE</b>      | Fiscal Year End  |
| <b>GAO</b>      | Government Accounting Office   |
| <b>GFC</b>      | Gross Family Contribution. Has been replaced by the term Total Tenant Payment (TTP).   |
| <b>GR</b>       | Gross Rent   |
| <b>HAP</b>      | Housing Assistance Payment   |
| <b>HAP Plan</b> | Housing Assistance Payment Plan  |
| <b>HCDA</b>     | Housing and Community Development Act  |
| <b>HQS</b>      | Housing Quality Standards  |
| <b>HUD</b>      | The Department of Housing and Urban Development or its designee.   |
| <b>HURRA</b>    | Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations                                       |

|             |  |
|-------------|--|
| <b>IG</b>   | Inspector General  |
| <b>IGR</b>  | Independent Group Residence  |
| <b>IPA</b>  | Independent Public Accountant  |
| <b>IRA</b>  | Individual Retirement Account  |
| <b>MSA</b>  | Metropolitan Statistical Area established by the U.S. Census Bureau                              |
| <b>PHA</b>  | Public Housing Agency  |
| <b>PMSA</b> | A Primary Metropolitan Statistical Area established by the U.S. Census Bureau                    |
| <b>PS</b>   | Payment Standard   |
| <b>QC</b>   | Quality Control  |
| <b>RFTA</b> | Request for Tenancy Approval   |
| <b>RFP</b>  | Request for Proposals  |
| <b>RRP</b>  | Rental Rehabilitation Program  |
| <b>SRO</b>  | Single Room Occupancy  |
| <b>SSMA</b> | Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area. |
| <b>TR</b>   | Tenant Rent  |
| <b>TTP</b>  | Total Tenant Payment   |
| <b>UA</b>   | Utility Allowance  |
| <b>URP</b>  | Utility Reimbursement Payment  |

## **GLOSSARY OF TERMS IN SUBSIDIZED HOUSING**

**1937 ACT.** The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

**ADMINISTRATIVE PLAN.** The HUD required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

**ABSORPTION.** In portability, the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE").** Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ADA.** Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

**ADJUSTED INCOME.** Annual income, less allowable HUD deductions.

**ADMINISTRATIVE FEE.** Fee paid by HUD to the PHA for administration of the program.

**ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve").** Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

**ADMISSION.** The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

**ANNUAL BUDGET AUTHORITY.** The maximum annual payment by HUD to a PHA for a funding increment.

**ANNUAL CONTRIBUTIONS CONTRACT (ACC).** A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

**ANNUAL INCOME.** The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**ANNUAL INCOME AFTER ALLOWANCES.** The Annual Income (described above) less the HUD-approved allowances.

**APPLICANT.** (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

**"AS-PAID" STATES.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**ASSETS.** (See Net Family Assets.)

**ASSISTED TENANT.** A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

**AUXILIARY AIDS.** Term refers to services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance. For example, auxiliary aids for persons with impaired vision may include: readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids for persons with impaired hearing may include: telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, note takers, written materials, and other similar services and devices.

**BUDGET AUTHORITY.** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**CHILD CARE EXPENSES.** Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable an adult family member to be employed, actively seek work or to further his/her education.

**CO-HEAD.** An individual in the household who is equally responsible for the lease with the head of household. (A family never has a co-head and a spouse and; a co-head is never a dependent).

**COMMON SPACE.** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**CONGREGATE HOUSING.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

**CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT.** (Consolidated ACC). See 24 CFR 982.151.

**CONTIGUOUS MSA.** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**CONTINUOUSLY ASSISTED.** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**CONTRACT.** (See Housing Assistance Payments Contract.)

**COOPERATIVE.** Term includes mutual housing. Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the

housing. A special housing type: See 24 CFR 982.619. A cooperative also is defined as a dwelling unit owned and/or shared by a group of individuals who have individual sleeping quarters and share common facilities such as kitchen, living room and some bathrooms.

**COVERED FAMILIES.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**DEPENDENT.** A member of the family household (excluding foster children) other than the family head or spouse, or co-head, who is under 18 years of age or is a disabled person or handicapped person, or is a full-time student 18 years of age or over.

**DISABILITY ASSISTANCE EXPENSE.** Anticipated costs for care attendants and auxiliary apparatus for disabled family members to enable a family member (including the disabled family member) to work.

**DISABLED FAMILY.** Means a family whose head, or spouse, or sole member (head), is a person with disabilities. The term "disabled family" may include: two or more persons with disabilities living together, or one or more persons with disabilities living with one or more persons determined to be essential to the care or well-being of the person or persons with disabilities (live-in aides). A disabled family may include persons with disabilities who are elderly.

**DISABLED PERSON.** See Person with Disabilities.

**DISPLACED PERSON/FAMILY.** A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

**DOMICILE.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**DRUG-RELATED CRIMINAL ACTIVITY.** The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

**DRUG TRAFFICKING.** The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**ECONOMIC SELF-SUFFICIENCY PROGRAM.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment).

Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (c).

**ELDERLY FAMILY.** A family whose head, spouse, or sole member (head) is a person who is an elderly person (at least 62 years of age). The term "elderly family" includes two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides. An elderly family may include elderly persons with disabilities, and non-elderly family members.

**ELDERLY HOUSEHOLD.** A family whose head or spouse or whose sole member is at least 62 years of age. The term "elderly family" may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and well being.

**ELDERLY PERSON.** A person who is at least 62 years old.

**ELIGIBILITY INCOME.** May 10, 1984, regulations deleted eligibility income, per se, because Annual Income is now for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY.** (Family). A family is defined by the PHA in the Administrative Plan, approved by HUD.

**EXCEPTIONAL MEDICAL OR OTHER EXPENSES.** Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the annual income. It is no longer used.

**EXCEPTION RENT.** In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

**EXCESS MEDICAL EXPENSES.** Any medical expenses incurred by elderly or disabled families in excess of 3% of annual income which are not reimbursable from any other source.

**EXTREMELY LOW-INCOME FAMILY.** A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30% of median income if HUD finds such variations are necessary due to unusually high or low family incomes.

**FAIR HOUSING ACT.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)

**FAIR MARKET RENT (FMR).** The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register*.

**FAMILY.** "Family" includes but is not limited to:

A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

An elderly family;

A near-elderly family;

A displaced family

The remaining member of a tenant family; and

A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

("Family" can be further defined by the PHA).

**FAMILY OF VETERAN OR SERVICE PERSON.** A family is a "family of veteran or service person" when:

The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

**FAMILY RENT TO OWNER.** In the voucher program, the portion of the rent to owner paid by the family.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM).** The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FAMILY SHARE.** The amount calculated by subtracting the housing assistance payment from the gross rent.

**FAMILY UNIT SIZE.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

**FMR/EXCEPTION RENT.** The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the PHA adopts a payment standard schedule that is within 90% to 110% of the FMR for each bedroom size.

**FOSTER CHILD CARE PAYMENT.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**FULL-TIME STUDENT.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

**FUNDING INCREMENT.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**GROSS FAMILY CONTRIBUTION.** Changed to Total Tenant Payment.

**GROSS RENT.** The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

**GROUP HOME.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

**HANDICAP.** Any condition or characteristic that renders a person an individual with handicaps.

**HAP CONTRACT.** (See Housing Assistance Payments contract.)

**HEAD OF HOUSEHOLD.** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOUSING AGENCY.** A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

**HOUSING ASSISTANCE PAYMENT.** The monthly assistance payment by a PHA. The total assistance payment consists of:

A payment to the owner for rent to owner under the family's lease.

An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

**HOUSING ASSISTANCE PAYMENTS CONTRACT.** (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

**HOUSING ASSISTANCE PLAN.** (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the



block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**HOUSING QUALITY STANDARDS (HQS).** The HUD minimum quality standards for housing assisted under the tenant-based programs.

**HUD.** The Department of Housing and Urban Development.

**HUD REQUIREMENTS.** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations, Federal Register notices, or other binding program directives.

**IMPUTED ASSET.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**IMPUTED INCOME.** HUD passbook rate x total cash value of assets. Calculation used when assets exceed \$5,000.

**IMPUTED WELFARE INCOME.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**INCOME.** Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**INCOME FOR ELIGIBILITY.** Annual Income.

**INDIAN.** Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State.

**INDIAN HOUSING AUTHORITY (IHA).** A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

**INDIVIDUAL WITH HANDICAPS.** Means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

**INITIAL PHA.** In portability, the term refers to both:

- A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

- A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**INITIAL PAYMENT STANDARD.** The payment standard at the beginning of the HAP contract term.

**INITIAL RENT TO OWNER.** The rent to owner at the beginning of the HAP contract term.

**INTEREST REDUCTION SUBSIDIES.** The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**JURISDICTION.** The area in which the PHA has authority under State and local law to administer the program.

**LANDLORD.** This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**LARGE VERY LOW INCOME FAMILY.** Prior to the 1982 regulations, this meant a very low-income family which included six or more minors. This term is no longer used.

**LEASE.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

**LEASE ADDENDUM.** For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

**LIVE-IN AIDE.** A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person, and would not be living in the unit except to provide necessary supportive services.

**LOCAL PREFERENCE.** A preference used by the PHA to select among applicant families.

**LOW-INCOME FAMILY.** A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low-income families.

**MAJOR LIFE ACTIVITIES.** The term is related to an individual with handicaps, and refers to functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**MANUFACTURED HOME.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets HQS. A special housing type. See 24 CFR 982.620 and 982.621.

**MANUFACTURED HOME SPACE.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

**MARKET RENT.** The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

**MEDICAL EXPENSES.** Those total medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

**MERGER DATE.** October 1, 1999 was the date the Voucher and Certificate programs began to be converted to the Housing Choice Voucher program.

**MINOR.** A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

**MIXED FAMILY.** A family with citizens and those with eligible immigration status and without citizens and those with eligible immigration status as defined in 24 CFR 5.504(b)(3)

**MONTHLY ADJUSTED INCOME.** 1/12 of the Annual Income after Allowances or Adjusted Income.

**MONTHLY INCOME.** 1/12 of the Annual Income.

**MUTUAL HOUSING.** Included in the definition of COOPERATIVE.

**NATIONAL.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NEAR-ELDERLY FAMILY.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62. The family may include: two or more persons who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

**NEGATIVE RENT.** Now called Utility Reimbursement. A negative tenant rent results in a Utility Reimbursement Payment (URP).

**NET FAMILY ASSETS.** Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

**NET FAMILY CONTRIBUTION.** Former name for Tenant Rent.

**NON-CITIZEN.** A person who is neither a citizen nor a national of the United States.

**OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards]** Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

**OVER-FMR TENANCY (OFTO).** In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit. This program no longer exists.

**OWNER.** Any persons or entity having the legal right to lease or sublease a unit to a participant.

**PARTICIPANT.** A family that has been admitted to the PHA's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (First day of initial lease term).

**PAYMENT STANDARD.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**PERSON WITH DISABILITIES.** A person who has a disability as defined in 42 U.S.C 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means an "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

**PHA PLAN.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with 24 CFR 903.

**PORTABILITY.** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

**PREMISES.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**PRIVATE SPACE.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**PROCESSING ENTITY.** Entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

**PROGRAM.** The Section 8 tenant-based assistance program under 24 CFR Part 982.

**PROGRAM RECEIPTS.** HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

**PUBLIC ASSISTANCE.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**PUBLIC HOUSING AGENCY (PHA).** PHA includes any State, county, municipality or other governmental entity or public body that is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):

Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**REASONABLE RENT.** A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

**RECEIVING PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**RECERTIFICATION.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim recertifications.

**REGULAR TENANCY.** In the pre-merger certificate program: A tenancy other than an over-FMR tenancy. This program no longer exists

**REMAINING MEMBER OF TENANT FAMILY.** Person left in assisted housing after other family members have left and become unassisted.

**RENT TO OWNER.** The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**RESIDENCY PREFERENCE.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

**RESIDENCY PREFERENCE AREA.** The specified area where families must reside to qualify for a residency preference.

**RESIDENT ASSISTANT.** A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or well being. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

**RESPONSIBLE ENTITY.** For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**SECRETARY.** The Secretary of Housing and Urban Development.

**SECTION 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

**SECURITY DEPOSIT.** A dollar amount to be paid by a tenant to a landlord and to be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SERVICE PERSON.** A person in the active military or naval service (including the active reserve) of the United States.

**SHARED HOUSING.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type.

**SINGLE PERSON.** A person living alone or intending to live alone.

**SPECIAL ADMISSION.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**SPECIAL HOUSING TYPES.** See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**SPECIFIED WELFARE BENEFIT REDUCTION.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**SPOUSE.** The husband or wife of the head of the household.

**SUBSIDIZED PROJECT.** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

Direct loans pursuant to Section 202 of the Housing Act of 1959; or

Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;

A Public Housing Project.

**SUBSIDY STANDARDS.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**SUBSTANDARD UNIT.** Substandard housing is defined by HUD for use as a federal preference.

**SUSPENSION/TOLLING.** Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

**TENANCY ADDENDUM.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**TENANT.** The person or persons (other than a live-in-aide) who executes the lease as lessee of the dwelling unit.

**TENANT RENT.** The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

**TOTAL TENANT PAYMENT (TTP).** The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

**UNIT.** Residential space for the private use of a family.

**UNUSUAL EXPENSES.** Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**UTILITIES.** Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, stove, trash collection and sewage services. Telephone service is not included as a utility.

**UTILITY ALLOWANCE.** If the cost of utilities for water, sewer, gas, and electricity and including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

**UTILITY REIMBURSEMENT.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

**UTILITY REIMBURSEMENT PAYMENT.** In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**VACANCY LOSS PAYMENTS.** (For pre-merger certificate contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**VERY LARGE LOWER-INCOME FAMILY.** Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

**VERY LOW INCOME FAMILY.** A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the pre-merger certificate and voucher programs.



**VETERAN.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released under conditions other than dishonorable.

**VIOLENT CRIMINAL ACTIVITY.** Violent criminal activity is any criminal activity that has as one of its elements, the use, attempted use, or threatened use of physical force substantial enough to cause, or be likely to cause, serious bodily injury or property damage.

**VOUCHER (rental voucher).** A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**VOUCHER HOLDER.** A family holding an active voucher that has not yet expired (search time).

**VOUCHER PROGRAM.** The Housing Choice Voucher program.

**WAITING LIST.** A list of families organized according to HUD regulations and PHA policy waiting for a subsidy to become available.

**WAITING LIST ADMISSION.** An admission from the PHA waiting list.

**WELFARE ASSISTANCE.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the Family Self Sufficiency Program (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

**WELFARE RENT.** This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

**WELFARE-TO-WORK (WTW) FAMILIES.** Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

RESERVED

## **GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE**

**CHILD.** A member of the family other than the family head or spouse who is under 18 years of age.

**CITIZEN.** A citizen or national of the United States.

**EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS.** The documents which must be submitted as evidence of citizenship or eligible immigration status.

**HEAD OF HOUSEHOLD.** The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

**HUD.** Department of Housing and Urban Development.

**INS.** The U.S. Immigration and Naturalization Service.

**MIXED FAMILY.** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

**NATIONAL.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NONCITIZEN.** A person who is neither a citizen nor national of the United States.

**PHA.** A housing authority that operates Public Housing.

**RESPONSIBLE ENTITY.** The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

**SECTION 214.** Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

**SECTION 504 OF THE REHABILITATION ACT OF 1973.** As amended, states that no otherwise qualified individual with handicaps shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from HUD. Compliance requires accessibility by physically handicapped persons.

**SPOUSE.** Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing program.

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